DOCUMENT RESUME

ED 471 825 EA 032 096

TITLE	"No Child Left Behind Act" Briefing Course Book (Denver, Colorado, October 5, 2002).
INSTITUTION	National School Boards Association, Alexandria, VA. Council of School Attorneys.
ISBN	ISBN-0-88364-263-8
PUB DATE	2002-10-05
NOTE	107p.; Developed with Daniel B. Fuller, Rodney G. Moore, Scott Palmer, Julie Underwood, and Ronald D. Wenkart. Title page title is "'No Child Left Behind Act' Seminar Course Book."
AVAILABLE FROM	National School Boards Association, 1680 Duke Street, Alexandria, VA 22314 (Stock No. 06-190-W: members, $25; nonmembers, $30; plus postage and handling). Tel: 703-838-6722; Fax. 703-838-7590; e-mail: isimonin@nsba.org; Web site: http://www.nsba.org/cosa.
PUB TYPE	Collected Works - Proceedings (021) -- Guides - Non-Classroom (055)
EDRS PRICE	EDRS Price MF01 Plus Postage. PC Not Available from EDRS
DESCRIPTORS	Educational Administration; *Educational Change; *Educational Legislation; Educational Objectives; Educational Policy; Elementary Secondary Education; Government School Relationship
IDENTIFIERS	*No Child Left Behind Act 2001

ABSTRACT

This text presents the key points of the No Child Left Behind (NCLB) Act of 2002. It is divided into three sections. Section 1 describes the political and policy contexts for implementation of the act. It features a timetable to help guide local school boards, including notification and reporting requirements for local boards. It summarizes the key provision of the act, details the new legal requirements for including students in statewide assessments, and considers the federal legal implications of using one test for two purposes. Section 2, "Testing and Accountability, State Responsibilities, and Public School Choice," describes supplemental services and the comments on Education Secretary Paige's descriptions of these services. The section also includes school-improvement options charts and general policies associated with NCLB. The final section focuses on employment and hiring practices, as well as miscellaneous provisions and parental choices. It includes an executive summary of NCLB and the new standards for teachers and paraprofessionals. (RJM)

Reproductions supplied by EDRS are the best that can be made
from the original document.

ED 471 825

No Child Left Behind Act Briefing
October 5, 2002
Denver, Colorado

PERMISSION TO REPRODUCE AND DISSEMINATE THIS MATERIAL IN MICROFICHE ONLY HAS BEEN GRANTED BY

D. Gray

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

2B

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

☐ This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

- Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

NSBA
COUNCIL OF SCHOOL ATTORNEYS

EA 032 096

BEST COPY AVAILABLE

N S B A
COUNCIL
OF SCHOOL
ATTORNEYS

"No Child Left Behind Act"

Seminar Course Book
October 5, 2002
Hyatt Regency
Denver, Colorado

·NSBA·

Copyright© 2002

by the
National School Boards Association
Council of School Attorneys
1680 Duke Street
Alexandria, VA 22314
703/838-6722***FAX 703/683-7590
http://www.nsba.org/cosa

THIS PUBLICATION IS DESIGNED TO PROVIDE ACCURATE AND AUTHORITATIVE INFORMATION IN REGARD TO THE SUBJECT MATTER COVERED. IT IS SOLD WITH THE UNDERSTANDING THAT THE PUBLISHER IS NOT ENGAGED IN RENDERING LEGAL ACCOUNTING, OR PROFESSIONAL SERVICES. IF LEGAL ADVICE OR OTHER EXPERT ASSISTANCE IS REQUIRED, THE SERVICES OF A COMPETENT PROFESSIONAL SHOULD BE SOUGHT.

"Original drawing and cover design: Andrew Paulson, NSBA Legal Information Assistant"

ISBN 0-88364-263-8
Additional copies of this *"No Child Left Behind Act"* briefing course book, can be obtained for $30 ($25 for NSBA Council of School Attorneys' members or NSBA National Affiliate School Districts) plus 7% shipping & handling. To order by phone, call 800/706-6722 or FAX your order to 301/604-0158.

Daniel B. Fuller is Director of Federal programs at the National School Boards Association, Alexandria, Virginia. He is responsible for developing and implementing comprehensive legislative strategies and representing the interests of local school boards. Mr. Fuller was elected vice president of the Committee for Education Funding, a non-partisan group if 100 education groups advocating for greater funding for elementary, secondary and higher education. He graduated from the State University of New York at Platttsburgh.

Rodney G. Moore is General Counsel and Chief Legal Officer of the Atlanta Public Schools. He is past president of the Santa Clara County Black Lawyers Association and past president of the California Association of Black Lawyers. Mr. Moore received his J.D. from Santa Clara University where he is currently on the Board of Visitors. He is a director of the NSBA Council of School Attorneys.

Scott Palmer is Counsel in the Washington, D.C. law firm of Nixon Peabody, LLP, where he works on education and government relations matters, providing legal, policy, and advocacy services to education stakeholders. He currently works with several states, schools districts, universities and other education institutions on issues such as the No Child Left Behind Act. Mr. Palmer served in the Clinton Administration as Deputy Assistant Secretary of the U.S. Department of Education's Office for Civil Rights. He received his J.D. from the University of California at Berkeley School of Law, Boalt Hall, and his Masters in Public Policy from Harvard University's Kennedy School of Government.

Julie Underwood is Associate Executive Director and General Counsel for the National School Boards Association, Alexandria, Virginia. She is the former Dean, School of Education and Allied Professions at Miami University, Ohio. Dr. Underwood received her Ph.D. from the University of Florida, and her law degree from Indiana University.

Ronald D. Wenkart is General Counsel, Orange County Board of Education, Costa Mesa, California which represents 36 Orange County school agencies, the Orange County Superintendent of Schools, and the Orange County Board of Education. He is past president of the California Council of School Attorneys and is a director of the NSBA Council of School Attorneys. Mr. Wenkart received his J.D. from the University of San Fernando Valley, College of Law (now University of La Verne).

NSBA Council of School Attorneys
"No Child Left Behind Act" Briefing
October 5, 2002
Hyatt Regency, Denver, Colorado

TABLE OF CONTENTS

TAB A
A Political and Policy Context for Implementation of the No Child Left Behind Act

Julie Underwood, General Counsel, National School Boards Association (NSBA), Alexandria, VA

> "Timetable and Frequently Asked Questions: Guidance for Local School Boards," NSBA, August, 2002
> "Policy Guidelines for Local School Boards," NSBA, August 2002
> "Notification and Reporting Requirements for Local School Boards," NSBA, August 2002

Scott R. Palmer, Nixon Peabody, LLP, Washington, DC

> The No Child Left Behind Act - Summary of Key Provisions
> "New Legal Requirements for Including Students in Statewide Assessments," by Arthur L. Coleman and Scott R. Palmer, Nixon Peabody, LLP, Washington, DC. Reprinted from *Education Assessment Insider*, May 2002
> "What Are the Federal Legal Implications of Using One Test for Two Purposes?" by Arthur L. Coleman and Scott R. Palmer. Reprinted from *Education Assessment Insider*, June 2002
> "New Accountability Rules Expand Existing Federal Laws," by Arthur L. Coleman and Scott R. Palmer. Reprinted from *Education Assessment Insider*, July 2002

TAB B
Testing and Accountability, State Responsibilities and Public School Choice

Daniel Fuller, Director of Federal Programs, National School Boards Association, Alexandria, VA

> "Choice and Supplemental Services," Secretary Paige's, June 14, 2002 Dear Colleague Letter
> "NSBA's Summary on Secretary Paige's, June 14 Letter on Choice and Supplemental Services"
> "Dear Colleague Letter to Education Officials Regarding the Implementation," August 16, 2002
> "NSBA's Summary on Secretary Paige's, August 16 Letter on Choice and Supplemental Services: Special Rules When Assessment Results for Schools in Improvement Status are Delayed"

"Adequate Yearly Progress (AYP), Secretary Paige's July 24, Dear Colleague Letter and School Improvement Options Charts"
"NSBA's Summary of Secretary Paige's July 24 (AYP) Letter"
"NSBA's NCLB General Policies"
"NSBA's NCLB Key Local Requirements for the 2002-2002 School Year"

TAB C

Employment and Hiring Practices, Miscellaneous Provisions and Parental Choices

- Executive Summary
- Highly Qualified Teachers and Paraprofessionals

Rodney Moore, General Counsel Atlanta Public Schools, Atlanta, GA
Ronald D. Wenkart, General Counsel, Orange County Department of Education, Costa Mesa, CA

The No Child Left Behind Act

Timetable and Frequently Asked Questions: Guidance for Local School Boards

Resource Document #1
updated as of 8/27/02

The following timeline and frequently asked questions have been developed in order to provide an overview of the main sections of the No Child Left Behind Act (NCLBA) as they relate to the responsibilities of school districts. Under the No Child Left Behind Act, school districts will be required to implement and oversee a multitude of testing, reporting, and accountability practices. The document is not meant to be comprehensive, but rather to offer guidance to districts as they begin to build and put into practice the framework of the No Child Left Behind Act. Changes to NCLBA are expected in January 2003 as the legislation is refined and clarified. Updates to the timetable and regulations will be provided on a regular basis.

The No Child Left Behind resource documents are jointly developed by NSBA's Office of General Counsel, Advocacy, and Federation Member Services departments.

Julie Underwood,
General Counsel
703-838-6710
junderwood@nsba.org

Karla Schultz, Manager,
Resource Exchange Network, Educational Services
703-838-6200
kschultz@nsba.org

Table of Contents

Timetable for Change

Key Implementation Dates 2

Frequently Asked Questions

Testing and Accountability 3

Hiring Restrictions on Instructional Staff 8

New Assessments and Services for Limited English Proficient Students 9

Other Legal Issues 10

National School Boards Association
1680 Duke Street
Alexandria, VA 22314
703-838-6722
www.nsba.org

Copyright © 2002 National School Boards Association. All rights reserved. Permission granted to NSBA federation members to reprint NSBA *No Child Left Behind Act: Timetable and Frequently Asked Questions*, August 2002.

Timetable for Change

Key Dates for Implementation of NCLBA

During the 2002 – 2003 School Year

- States and districts must issue annual report cards to the public on student performance.
- All states must participate in the 4th and 8th grade reading and mathematics sections of the National Assessment of Educational Progress (NAEP).
- All limited English proficient (LEP) students must be assessed each year in their English oral language, reading, and writing skills.
- Students who attend schools that were in the first year of school improvement during the 2001-02 school year are eligible for transfer to another school.
- Students who attend schools that were in school improvement status for two or more years prior to the enactment of NCLBA must be offered the opportunity to transfer to another public school or receive supplemental services.
- Districts must develop criteria for and a list of approved supplemental service providers.
- Districts must provide technical assistance to schools in school improvement status.
- Newly hired teachers who work in a program supported with Title I, Part A funds must be "highly qualified."
- Newly hired paraprofessionals who work in a program supported with Title I, Part A funds must have completed at least two years of postsecondary school, hold an associates degree, or otherwise meet a rigorous state or local standard of quality and demonstrate their knowledge and ability through a formal state or local assessment.
- Public school districts must certify each year that none of their policies prevent or deny participation in constitutionally protected prayer in elementary and secondary schools.
- States must determine a baseline and timeline for adequate yearly progress using 2001-2002 data.
- Districts must provide an annual report to the state on progress toward meeting the state's measurable objectives.

During the 2005 –2006 School Year

- Science standards must be in place.
- States must begin to assess reading/language arts and mathematics each year in grades 3 through 8 and at one year of the grade 10 through 12 span.
- 95% of students statewide and 95% of each major subgroup of students must participate in testing.
- All teachers who teach core academic subjects must be "highly qualified."
- All paraprofessionals—except those in non-instructional roles—must be "highly qualified."

During the 2007 – 2008 School Year

- States must administer a science assessment each year in at least one grade in each of the following grade spans: 3-5; 6-9; and, 10-12.

By the end of the 2013 – 2014 School Year

- All students must be proficient in science, reading and mathematics.

Frequently Asked Questions

Testing and Accountability

1. **What is "adequate yearly progress" (AYP) and how will school districts know if local schools have achieved it?**

Each state is required to define the level of proficiency students must achieve in mathematics, reading or language arts, and (starting in the 2005-06 academic year) science. Within the next 12 years, all students must attain this requisite level of proficiency, and each school is required to demonstrate that it is making "adequate yearly progress" (AYP) toward achieving that goal. AYP must be:

- measured overall for each school
- broken out by grade level as well as be disaggregated for:
  - economically disadvantaged students
  - students from major ethnic and racial groups
  - students with disabilities
  - students with limited English proficiency

Each state will establish its own initial starting point (e.g., based on the lowest-achieving demographic subgroup or the lowest-achieving school in the state) and must then raise this initial bar in equal increments to reach 100 percent proficiency by the year 2014. The initial bar must be raised after two years, and subsequent thresholds must be raised at least once every three years.

In addition to state assessments, at least one other indicator of AYP should be selected by each state. The state can determine which indicator to use for its elementary schools, however, graduation rates must be included as an indicator of high school performance.

2. **What are the consequences for schools that do not make AYP?**

Schools that do not make adequate yearly progress must develop an improvement plan to be approved at the district level. In addition, they are eligible to receive district and/or state technical assistance designed to improve teaching and learning. This assistance might include, for example, more intensive professional development for teachers, and tutoring and summer classes for students.

If a school does not make adequate yearly progress, as defined by the state, for two consecutive academic years, it will be deemed by the district to be in need of "school improvement." These schools will receive technical assistance to improve performance and be eligible to receive federal funds for school improvement activities. Students who attend these failing schools are also allowed to transfer to another more successful public school (one not identified as "needing improvement").

If a school does not make adequate yearly progress for three consecutive academic years, its low income students become eligible to receive supplemental educational services.

If a school fails to make adequate yearly progress for four consecutive academic years, the district is required take "corrective action" to improve the school. This may include replacing the entire school staff or introducing new curriculum. During this time, low income students are eligible for supplemental services, and continue to be eligible to attend a successful public school.

If a school fails to make adequate yearly progress for five consecutive academic years, the district must implement "restructuring." If restructuring occurs, one or more of the following can take place: (1) plans for significant alternative governance actions or staff restructuring could be implemented; (2) the state could take over the school; (3) a private management contractor could be hired to manage and operate the school; or, (4) the school could be converted to a charter school.

However, if a previously failing school achieves adequate yearly progress for two consecutive years, it will no longer be identified for school improvement, corrective action, or restructuring.

3. The legislation provides schools with a "safe harbor" regarding AYP. What does this mean?

Certain student subgroups must meet the AYP measure for their state: economically disadvantaged students, students from each major racial and ethnic group, children with disabilities, and limited English proficient children. However, there is a "safe harbor" for those schools where the overall student population achieves AYP, but where one or more subgroup fails to do so. Such schools will be deemed to have achieved AYP if all four of the following criteria are met:

- the percentage of students in the subgroup(s) who failed to reach the proficient level has declined by at least 10 percent
- for secondary schools, the targeted increase in graduations was met
- for elementary schools, progress on the state's other academic indicator(s) was met
- progress was also met on any additional indicators adopted by the state.

4. Who is eligible for public school choice, and which schools may they attend?

Students who attend a school that fails to make AYP for two consecutive years or more must be given the option to transfer to another public school in the district. If all public schools in a district have been identified as in need of improvement, corrective action, or restructuring, then the district should try to establish an agreement with another public school district to allow students to attend school across district boundaries. Public school choice must be provided unless state law prohibits it.

Prior to the start of each school year, the school board will determine and make known to parents, the schools designated for public school choice.

5. What if a school district cannot afford to provide transportation to everyone who is eligible for public school choice?

School districts must provide transportation for public school choice. However, if a district is unable to provide transportation to all eligible students because of the costs associated with providing the service, then it must give priority to low income students as determined by state or federal standards.

6. What is the "unsafe school choice option," and who is eligible?

Students who attend "persistently dangerous" public schools, as defined by the state, or who become victims of a violent criminal offense while in or on the grounds of the school they attend, must be allowed to attend another safe public school in the district.

7. Which students are entitled to receive supplemental educational services?

Students from low income families who attend a school that fails to make adequate yearly progress for three consecutive years can receive supplemental educational services. These are defined as tutoring and other supplemental academic enrichment services that are in addition to the instruction provided during the regular school day. The services must be of high quality and be designed to increase student achievement on state assessments.

If funds are insufficient to pay for services for all eligible students, the district must give priority to the lowest achieving students. Similarly, if the number of spaces at approved supplemental service providers is too few, given the number of eligible students, the district must "apply fair and equitable procedures for serving students."

8. What criteria must school districts use in selecting appropriate supplemental service providers, and what steps must they take to ensure students receive high quality services?

The school district must select supplemental service providers from a list of state approved providers. To be included on this list, supplemental service providers must have demonstrated that they employ research-based methods for improving student achievement and have a demonstrated record of effectiveness in helping students meet state academic content standards and student achievement standards. Providers may be public, private, or faith-based institutions. Each year, districts with schools that fail to meet AYP for three consecutive years must notify families of eligible students that supplemental services are available. The notification must also include the identity and qualifications of providers, and describe the services each provides. Additionally, districts must inform families of eligible students that staff is available to help them select an appropriate service provider for their child.

School districts must also enter into an agreement with supplemental service providers. This agreement must specify: (1) the goals and timetable for improving each student's achievement; (2) the schedule for student progress reports; and, (3) a provision for termination if the provider fails to meet the goals, timetables, and payment terms.

9. Can a school district act as a supplemental service provider?

Yes, a school district may be approved by the state to provide supplemental services to eligible students. The district must meet the same eligibility, performance, and reporting standards as all other state-approved supplemental service providers. Any school or district that has been identified as in need of improvement may not be a supplemental service provider.

10. How much money is a district required to spend on transportation for public school choice and supplemental services?

The money available for supplemental services is capped at (1) the district's per-child Title I, Part A allocation or (2) the actual cost of the services, whichever is less. Districts must use at least 5 percent of their Title I, Part A funds to pay for supplemental services.

Districts must also use an additional 10 percent of Title I, Part A funds to pay for public school choice transportation.

If necessary, a district may spend a total of 20 percent of their Title I, Part A allocations to satisfy the expense of providing choice-related transportation costs and supplemental educational services. Of that 20 percent, 5 percent is required for supplemental service costs, and 10 percent is required for transportation expenses. The remaining 5 percent of Title I allocations may be divided between transportation and/or supplemental as necessary in order to provide these services to eligible students.

11. How can a district increase its available Title I monies in order to meet the costs of supplemental services and school choice transportation?

In order to meet the increased expenses incurred by providing choice-related transportation and supplemental services, a school district will now be able to increase its available Title I monies by transferring funds from the following programs: Technology Grant Program; Safe & Drug-Free Schools; 21st Century Community Learning Centers; and Innovative Programs.

12. Under what condition may a district request a waiver of all or some of the requirements to provide supplemental services?

A school district in a sparsely populated location may ask its state education department to waive all or some of the requirements to provide supplemental services if it can demonstrate that there are no service providers in the area or within "a reasonable distance" of the district, and if the district itself is unable to provide these services.

13. When does a district's obligation to provide supplemental and transportation services end?

A district is not required to provide choice-related transportation services to students if their original school is no longer identified for school improvement, corrective action, or restructuring. However, if students are prepared to provide their own transportation, they may continue to attend a public school of choice for the duration of time they would have attended their original school. Similarly, supplemental services are required only for as long as a student is eligible and the school he or she attends is identified as failing.

14. Do accountability and assessment requirements apply to private schools, home schools, or charter schools?

None of these requirements apply to private schools or home schools. However, as public schools, charter schools are subject to the same accountability and assessment requirements as are other public schools. State authorized chartering agencies, as established by state law, are responsible for ensuring charter schools meet these requirements.

15. What information must school districts include on the annual "Report Card," and to whom must the report be sent?

Starting in the 2002 – 2003 academic year, school districts must prepare annual reports for families and the public that describe district academic achievement in the aggregate, by individual schools, and by grade level. The report must include information on:

- student academic achievement on state assessments, disaggregated by subgroup

- student achievement at the basic, proficient, and advanced levels on state assessments
- graduation rates for secondary schools
- the number, percentage, and names of schools identified for school improvement
- the professional qualifications of teachers by school
- the percentage of students who were not tested (disaggregated by subgroup)
- for each school, the performance of its students compared to the school district and state as a whole.

Disaggregated subgroup information must be reported for the following:

- o economically disadvantaged students
- o students from each major racial and ethnic group
- o children with disabilities
- o LEP students
- o student gender
- o and students' migrant status

16. How are the data collection and reporting requirements different for AYP than for "Report Cards?"

In addition to collecting adequate yearly progress student performance data based on race/ethnicity, socioeconomic status, disability and LEP status, districts are additionally required to collect and report disaggregated student data based on gender and migrant status for inclusion in the state's annual "Report Card."

The school district is also responsible for publicly disseminating its Report Cards. In order to make the Report Cards as widely available as possible, districts must not only provide them to all parents and schools in the district, but also must use public means available for distribution including the media, the Internet, and other public agencies.

17. Are there exceptions to data reporting requirements?

Student performance by subgroups does not have to be reported if the number of students is a particular subgroup, or subgroups, is too small to be reliable, or if the number of students in a subgroup is so small that the data would identify individual students. (i.e., a school has only two boys in 3rd grade, only one Asian-American student, or two LEP students).

18. What are the unique reporting and policy requirements for Title I schools?

A school that receives Title I funds must provide parents information on the achievement level of their child on each of the state academic assessments as soon as is practicably possible after the test is taken. Such a school must also give timely notice to parent's that their child has been assigned or has been taught for four or more consecutive weeks by a teacher who is not highly qualified.

A district receiving Title I, funds and each school served under Title I, must jointly develop with, and distribute to, parents of children participating in Title I programs, a written parental involvement policy. If a school or district has a parental involvement policy that applies to all parents, it may amend the policy to meet the requirements under the NCLBA. Schools must:

- hold at least one annual meeting for Title I parents
- offer a flexible number of meetings
- involve parents in an ongoing manner in the planning, review, and improvement of Title I programs

- provide Title I parents with information about the programs, a description and explanation of the curriculum, forms of academic assessment, and, if requested, provide opportunities for regular meetings to discuss the education of their children
- develop a school-parent compact that outlines the responsibilities of each party for improved student academic achievement

Hiring Restrictions on Instructional Staff

1. **What educational requirements apply to currently employed teacher's aides versus new applicants for this position?**

All teacher's aides (i.e., paraprofessionals) who work in programs supported with Title I funds, irrespective of when they were hired, must have a high school diploma or its recognized equivalent. Those hired after January 8, 2002 must also have completed at least two years of coursework at an institution of higher learning, earned an associate's degree, or passed a rigorous state academic assessment. All teacher's aides (paraprofessionals) who were hired before January 8, 2002 and who work in programs supported by Title I, must satisfy the same requirements as new hires by January 8, 2006.

2. **How is a "highly qualified" teacher defined?**

All core content area teachers in a state must be "highly qualified" by the end of the 2005-06 academic year. However, the definition of a "highly-qualified" teacher varies by the type of school in which the teacher works. The definitions are described below for teachers in various categories.

Public elementary and secondary school teachers The teacher must have full state certification as a teacher and must not have any certification requirements waived on any basis (i.e., on an emergency, temporary, or provisional basis).

Charter school teachers The teacher must meet the requirements set forth in the state's public charter school law.

New elementary school teachers The teacher must have full state certification, at least a bachelor's degree, and have passed a rigorous state test demonstrating subject knowledge and teaching skills in elementary school curricular areas such as reading, writing, and math.

New middle or secondary school teachers The teacher must have full state certification, at least a bachelor's degree, and have passed a rigorous state test in the subjects he or she teaches or have successfully completed an academic major (or equivalent course work), graduate degree, or advanced certification in each subject taught.

Experienced elementary, middle, or secondary school teachers The teacher must meet the requirements for new teachers or hold a bachelor's degree and demonstrates competence in all subjects taught, using a state standard of evaluation. This standard must, among other requirements, provide objective information about the teacher's content knowledge.

■ *New Assessments and Services for Limited English Proficient Students*

1. Can school districts continue to provide bilingual education to students?

Yes. School districts may select any method they deem best for teaching limited English proficient (LEP) students, and this may include bilingual education. However, districts are no longer required to spend a specified amount of money on bilingual education, and existing programs must emphasize the teaching of English to LEP students.

2. What information must school districts provide to families of limited-English proficient (LEP) students?

School districts must inform the families of limited English proficient students of the following: (1) the reasons why their child has been placed in a language instruction education program; (2) their right to have their child removed from the program and placed in a regular classroom program; and, (3) their right to choose from among the instructional programs offered, if more than one is available. In addition, if a school district's LEP students fail to make progress on the state's English proficiency objectives and accountability provisions, the families of those students must be notified.

Districts must provide required information in a uniform format that is comprehensible to families, and, to the extent possible, in a language that can be understood by families.

3. What new testing and accountability requirements apply to LEP students and the districts in which they are enrolled?

Children who have attended school in the United States for at least three consecutive years and who participate in a language instruction program must be tested in English for reading and language arts. Test waivers may be granted on a case-by-case basis for LEP students who demonstrate unusual and unique circumstances.

States are required to develop annual measurable achievement objectives to monitor the progress of LEP students in attaining English proficiency and will be held accountable for achieving these objectives. If a district fails to meet these objectives for four years, a state must require the district to modify its curriculum, program, or method of instruction. The state must also determine whether the district should continue to receive funding for its language instruction program and whether employees in the language instruction program should be replaced.

Other Legal Issues

1. What must school districts do to comply with NCLBA's school prayer provision?

Each school district is required to certify, in writing to its state education agency, that it does not prevent or deny participation in constitutionally protected prayer. While schools may impose rules or guidelines that restrict student activities, they cannot be structured or imposed in a manner that targets or discriminates against religious activity or speech. For example, students have the right to engage in voluntary prayer or religious discussion that is not disruptive to regular school activities or that takes place in informal settings (e.g., cafeterias and hallways). However, they cannot force others to listen or participate.

2. Must the Boy Scouts be allowed to meet on public school campuses?

If a public school receives funds from the U.S. Department of Education and has a designated open forum or a limited public forum that permits outside youth or community groups to meet on school premises or in school facilities before or after school, then the Boy Scouts must be given similar access to the school campus. (Equal Access Act)

3. Must districts provide military recruiters with access to their campuses and students?

If a school district provides post secondary institutions or prospective employers with access to its school campuses, it must provide military recruiters with the same type of access. School districts must also provide, upon request by military recruiters, students' names, addresses and telephone numbers, unless a secondary school student or the parent of a student has requested that this information not be released without prior written parental consent.

4. What steps must school districts take to protect student privacy?

School districts are required to develop policies and procedures—and to notify families of them on an annual basis—regarding:

- the right of parents to inspect surveys before they are administered by the school to their child
- efforts to protect student privacy in the event a survey is distributed to students
- the right of parents to inspect instructional materials (excluding tests) that are part of their child's curriculum
- the administration of student physical examinations or screenings
- the collection, disclosure or use of students' personal information
- the right of parents to inspect any instrument used in the collection of their child's personal information. School districts must also inform families of their right to opt their child out of participation in certain activities such as surveys and physical examinations and screenings

(Family Education Rights and Privacy Act - FERPA)

5. What steps must school districts take to protect the rights of homeless students?

Homeless students must have access to the same free, appropriate public education, including a public preschool education, as provided to other children and youth. In addition, they should not be separated from the mainstream school environment on the basis of their being homeless. Thus, schools are required to continue a homeless student's education in his or her school of origin (under certain conditions), or must enroll the student in a public school that non-homeless students who live in the same attendance area are eligible to attend. Districts must also provide homeless students with all services that are offered to other students. These include: (1) transportation services; (2) educational services (e.g., special education, LEP, gifted and talented) for which they meet the eligibility requirements; and, (3) school nutrition programs.

6. Under what circumstances are school staff legally liable for their actions at work?

Teachers, principals, and other school professionals are protected from liability for harm caused by an act or omission on behalf of the school within the scope of their employment and in conformity with local, state, and federal law, in furtherance of efforts to maintain order or control a classroom or school. However, school staff may be sued and held liable if they behave in a manner that is negligent, criminal, or demonstrates a flagrant indifference to the rights or safety of the person who is harmed. This provision applies to any claim of harm filed on or after January 8, 2002, even if the harm occurred before that date.

7. What restrictions have been placed on school districts' sex education programs?

Federal funds may not be used to operate a program that distributes condoms or other contraceptives in schools. In addition, federal funds cannot be used to fund courses or provide materials that are deemed to promote or encourage sexual activity. Federally funded sex education classes must be age appropriate and emphasize abstinence.

Copyright © 2002 National School Boards Association. All rights reserved. Permission granted to NSBA federation members to reprint NSBA *No Child Left Behind Act: Timetable and Frequently Asked Questions*, August 2002.

The No Child Left Behind Act

Policy Guidelines for Local School Boards

Resource Document #2
updated as of 8/27/02

The following policy guidelines have been developed to facilitate implementation of the No Child Left Behind Act (NCLBA) in school districts around the nation. While the Act addresses a large number of issues and topics, the policy guidance outlined here relates only to those sections of the legislation around which there is the greatest potential for misunderstandings and legal conflicts among school districts, teachers, students, and families. The actions described in these policy statements are not necessarily required by law; however, they are intended to help school districts achieve some of the major goals and objectives of NCLBA and will help to promote and facilitate the outcomes the legislation was designed to achieve. As with other federal legislation, the school board's specific responsibility with regard to implementation of the NCLBA is the development of structure, policy, oversight, and vision to support the achievement of district students and ensure compliance.

Table of Contents

General Student Testing and District Accountability Requirements 2
Student Discipline and Safety 3
Employment and Hiring Restrictions 4
Employee Liability 5
Responsibilities Regarding Limited English Proficient Students 5
Responsibilities Regarding Title I Schools and Students 6
Responsibilities Regarding Homeless Students 6
Religion in Schools 7
Community Access to School Facilities 7
Military Access to Students 8
Student Privacy 8
Sex Education Programs and Curriculum 9

The No Child Left Behind resource documents are jointly developed by NSBA's Office of General Counsel, Advocacy, and Federation Member Services departments.

Julie Underwood,
General Counsel
703-838-6710
junderwood@nsba.org

Karla Schultz, Manager,
Resource Exchange Network, Educational Services
703-838-6200
kschultz@nsba.org

National School Boards Association
1680 Duke Street
Alexandria, VA 22314
703-838-6722
www.nsba.org

■ Copyright © 2002 National School Boards Association. All rights reserved. Permission granted to NSBA federation members to reprint NSBA *No Child Left Behind Act: Policy Guidelines for Local School Boards*, August 2002.

General Student Testing and District Accountability Requirements

1. School districts will prepare and disseminate an annual district report card to parents, schools, and the general public that summarizes the academic performance of district schools and students. The following data are to be included:

   - student academic achievement on state assessments, disaggregated by subgroups:
     - economically disadvantaged students
     - students from each major racial and ethnic group
     - children with disabilities
     - LEP students
     - student gender
     - student's migrant status
   - student achievement at the basic, proficient, and advanced levels on state assessments
   - secondary school graduation rates (disaggregated by subgroup)
   - the number, percentage, and names of schools identified for improvement
   - how students in each school performed on the state assessment compared to the school district and state as a whole
   - the percentage of students who were not tested (disaggregated by subgroup)
   - the professional qualifications of district teachers

2. School districts will collect and disseminate research-based information on effective school reform and improvement models, and recommend successful strategies to all schools that are in need of improvement in their district.

3. School districts should grant decision-making authority over the selection of school improvement strategies and technical assistance providers to school staff who are able to most closely evaluate the needs of the students in their school.

4. School districts will examine district rules, regulations and procedures, and modify as necessary, so that principals and teachers will have the flexibility and authority they need to effectively identify, secure, and take advantage of private and public resources and opportunities that are designed to promote student achievement.

5. School districts will support the improvement efforts of local schools by targeting district resources in a manner consistent with individual school priorities and needs, and by providing effective oversight to ensure that the improvement models and strategies selected by each failing school are appropriately aligned with state assessments in terms of the content knowledge and skills that are measured.

6. School districts will educate district employees, families, and other members of the public about the meaning of key phrases and terms in the legislation: *adequate yearly progress (AYP), school improvement, corrective action, safe harbor, restructuring,* and, *highly qualified.* The district should also publicize the dates and timelines for implementation of the changes that directly relate to testing, instruction, curriculum, student achievement, and employee qualifications.

7. School districts will develop and disseminate "fair and equitable procedures for serving students" who qualify for public choice transportation services and supplemental services. These procedures should specify eligibility criteria, selection priorities, and step-by-step procedures for families to follow in order to secure these services for their children.

8. School districts will develop guidelines for implementing public choice in the district—including a list of designated

choice schools—and use all means available to ensure that school staff and families know and understand eligibility requirements, restrictions on service, and required procedures.

9. School districts will issue transportation service guidelines to schools and families. These guidelines must address, among other things, the following: (1) restrictions that may be imposed by local health and safety codes; (2) the priority given to the lowest achieving students and those with the lowest income; (3) limitations on the district's obligation to provide transportation; (4) the implications of any conflicting laws or regulations that apply to the district (e.g., districts under a desegregation plan or districts in states with laws that expressly prohibit choice); and, (5) conditions under which transfers will be allowed between districts.

10. School districts will issue supplemental service guidelines to both families and potential providers. These guidelines must address, among other things, the following: (1) criteria used to select supplemental providers; (2) a list of approved providers, their services and qualifications, and evidence of their effectiveness; (3) the reporting requirements and other obligations that the legislation imposes on supplemental service providers; (4) student eligibility requirements; and, (5) other terms, conditions, and limitations under which the program will operate in the district.

11. School districts will require that each school identify an individual responsible for overseeing and monitoring the performance of the supplemental provider(s) that is (are) assisting students in their school. School districts will provide these individuals with the training and information they need to perform this monitoring task effectively.

■ *Student Discipline and Safety*

1. School districts will identify the creation and maintenance of safe and disciplined classrooms as a high priority for district and school staff. District- and school-level safety and discipline policies and regulations will be revised, and district resources will be re-deployed as necessary to reflect the high level of importance the district attaches to this objective.

2. School districts will develop clear standards for student conduct that are designed to ensure that the environment within each district school and classroom supports student learning. Consequences for violating these standards will be identified, as well as the procedures that school staff, families, and students must follow in order to resolve problems as they develop.

3. School districts will educate the school community and the public on how their state has defined the terms "persistently dangerous school" and "victim of a violent criminal offense." School districts will require school staff to assess and report to designated district staff, on an ongoing basis, whether their school fits the definition or is in danger of becoming so defined. In addition, the district will require that school staff inform the appropriate district staff immediately whenever a student becomes the victim of a violent criminal offense while in or on the grounds of the public school he or she attends.

4. School districts will develop an intervention plan that is to be implemented in persistently dangerous district schools. The plan should describe, for example, the resources available, the identity, roles, and responsibilities of key personnel, and the organizational, administrative, and legal actions that will be taken to address the problem. Additionally,

the plan should be based on criteria established by the state, and with the input of local law enforcement personnel, parents, and other members of the community.

5. The school district will inform the parent of every child who attends a school that has been defined as "persistently dangerous" that the school has been designated as such and that they have the right to transfer their child to a safe public school, including a public charter school. The notice, which will be in writing, will also indicate that the child is entitled to free transportation services.

6. The school district, or designated staff, will contact, in writing and by telephone, the parent of any child who is the victim of a violent criminal offense while on the grounds of his or her school. The parent will be informed of the right to transfer their child to a safe school elsewhere in the district, and that free transportation will be provided by the district.

Employment and Hiring Restrictions

1. School districts will ensure that all employee manuals and personnel documents are revised immediately to reflect: (1) the education and experience required of all new instructional employees; (2) the credentials that existing instructional employees must acquire; (3) the timetable for satisfying the new requirements; and (4) the consequences for employees who fail to comply.

2. School districts will notify all current employees of such employee manuals and personnel documents revisions and the implications for existing personnel.

3. School districts will inform families of students in Title I schools of their right to know the professional qualifications of their child's teacher and will describe where and how they can get this information.

4. School districts will monitor Title I schools to ensure staff provide timely notice to the families of all students who are taught for four or more consecutive weeks by a teacher who does not meet the formal definition of "highly qualified."

5. School districts will review staffing patterns within the district annually to ensure that poor and minority students are not taught—at higher rates than are other children—by inexperienced, unqualified, or out-of-field teachers. If staffing patterns indicate that this is occurring, the district leadership will develop strategies to correct the problem.

Employee Liability

1. School districts will provide all school employees with an explanation of the legal protections that have been afforded them in terms of actions they may take to maintain order, discipline, and an appropriate educational environment. Examples of approved actions should be provided (e.g., as part of a professional development workshop) to help ensure that staff will respond both effectively and legally in future altercations or conflicts with students. In addition, rules relating to parental or district notification of actions taken, written documentation, and other procedures should be developed and staff trained in implementing them appropriately.

2. School districts will inform all school and district employees of limitations on these rights. Specifically, employees will be informed that they can be held liable for harm if they engage in willful or criminal conduct, are grossly negligent, or behave recklessly or with flagrant indifference to the rights and safety of the person they harm.

Responsibilities Regarding Limited-English Proficient Students

1. School districts will instruct district personnel in charge of curriculum and instruction to promptly develop programs for limited-English proficient (LEP) students that emphasize English language instruction, and that have a primary goal of mainstreaming LEP students into regular classroom settings.

2. School districts will instruct all schools in their district to notify the families of students placed in an LEP program as soon as this occurs. Notification should include: (1) an explanation of why their child has been placed in the program; (2) a description of the program their child is in, as well as a description of all other types of available language programs; (3) notice of a parent's right to choose among instructional programs if more than one is available; (4) an explanation of how the current program will help their child to develop academically, learn English, and achieve the standards necessary for grade promotion and graduation; and (5) notice of a parent's right to have his or her child moved from an LEP program to a regular program if they so desire.

3. School districts must provide required parent notifications in a uniform format that is comprehensible to families, and, to the extent possible, in a language that can be understood by families.

Responsibilities Regarding Title I Schools and Students

1. Schools that receives Title I funds must provide each parent information on the achievement level of their child on each of the state academic assessments as soon as is practicably possible after the test is taken.

2. A school that receives Title I funds must also give timely notice that to families that their child has been assigned or has been taught for four or more consecutive weeks by a teacher who is not highly qualified.

3. A district receiving Title I funds and each school served under Title I must jointly develop with and distribute to parents of children participating in Title I programs a written parental involvement policy. If a school or district has a parental involvement policy that applies to all parents, it may amend the policy to meet the requirements under the NCLBA. Schools receiving Title I funds must:

   - hold at least one annual meeting for Title I parents
   - offer a flexible number of meetings
   - involve parents in an ongoing manner in the planning, review and improvement of Title I programs
   - provide Title I parents with information about the programs, a description and explanation of the curriculum, forms of academic assessment and if requested opportunities for regular meetings to discuss the education of their children
   - develop a school-parent compact that outlines the responsibilities of each party for improved student academic achievement

Responsibilities Regarding Homeless Students

1. School districts will develop and disseminate policy guidelines to each school that detail the rights of homeless students and the responsibilities that schools have to meet their needs and eliminate barriers to school attendance. This information will be disseminated in writing and by other means designed to raise awareness of these rights and responsibilities among school staff, homeless families and students, members of the public, and homeless service providers.

2. School districts will develop guidelines that emphasize the right of homeless students to: (1) an equal access to all educational programs and services, including transportation, that non-homeless students enjoy; (2) continue to attend school in their school of origin for the duration of homelessness; (3) attend regular public school with non-homeless students; and, (4) continue to receive all services for which they are eligible (i.e. special education, gifted and talented, and LEP).

Religion in Schools

1. School districts will certify, each year, that district schools do not prevent or otherwise deny students their right to participate in constitutionally protected prayer.

2. School districts will conduct awareness-raising activities around this requirement and educate staff, families, and students, about the parameters of acceptable religious speech and actions.

3. School districts will distribute religion guidelines to all schools. These guidelines, which should be approved by attorneys for the district, will clarify and explain the rights of students in each of the following contexts: (1) private religious activity—such as bible reading, religious discussions with fellow students, and group prayer—at school; (2) participation in before- or after-school events with religious content; (3) religion in school curriculum and instruction; (4) written expressions of religious beliefs by students in homework, art work, and other assignments; (5) distribution of religious literature on campus; (6) religiously-based excuses for non-participation in school programs and activities; (7) release time for students who desire to attend religious events or activities off-campus; (8) student attire that includes a religious theme or message; (9) access to school media for publicizing events; and, (10) access to school facilities.

Community Access to School Facilities

1. School districts will determine whether to adopt a "designated open forum" or "limited public forum" policy regarding youth and community groups' meeting on school premises or in school facilities before or after regular school hours. Once the district adopts a facility use policy, it will inform school officials that they are required to apply the policy equitably to all groups, including the Boys' Scouts or other affiliated groups. (Equal Access Act)

Military Access to Students

1. School districts will request parents of students in grades 9 - 12 complete a form indicating whether they grant permission for their child's name, address, and telephone number to be released to military recruiters. The notification should advise parents that, in the event they fail to complete and return this form to their child's school, all requests for this information by the military will be honored.

2. School districts will inform all high school principals in the district that they are prohibited from excluding military recruiters from their campuses if they do not similarly exclude prospective employers or post-secondary institutions from recruiting students.

Student Privacy

1. School districts will develop guidelines for school-based research that balance researchers' need for information that will be ultimately used to help schools, with students' right to privacy. The school board should designate a group or district office responsible for approving research requests and outline the basis on which approval will be granted.

2. School districts will notify parents if their child will be monitored and or surveyed by researchers. Notification should include the dates of planned research activities. Opportunities and procedures for excluding individual students must be provided.

3. School districts will notify parents, on an annual basis, of the administration of health and physical screenings, and must afford parents the opportunity to exclude their child if they so desire.

4. School districts will notify parents of their right to review all curriculum materials and survey instruments and procedures prior to them being used with their child. The district will develop processes and procedures that facilitate families' abilities to exercise this right.

5. School districts will prohibit district and school personnel from divulging students' names and addresses to businesses or organizations that plan to use this information for commercial or other purposes unless: (1) the purpose has been approved by the district, and, (2) parents have given their express permission, in writing, for this information to be divulged.

Sex Education Programs and Curriculum

1. School district leadership will inform, in writing, district curriculum specialists, those who teach sex education, school nurses, and other school staff of new restrictions and prohibitions regarding the distribution of contraceptives and the development and distribution of materials that may promote or encourage sexual activities. All professional development activities and materials for teachers and other school staff should be revised to reflect these new guidelines.

2. School districts will target federal funds toward the development or purchase of new, age-appropriate sex education curriculum that emphasizes abstinence if such curriculum is not currently being used in the district.

Copyright © 2002 National School Boards Association. All rights reserved. Permission granted to NSBA federation members to reprint NSBA *No Child Left Behind Act: Policy Guidelines for Local School Boards*, August 2002.

·NSBA·

The No Child Left Behind Act

Notification and Reporting Requirements for Local School Boards

Resource Document #3
updated as of 8/27/02

The No Child Left Behind Act (NCBLA) requires that certain reports and notifications be made available to the state, the public, parents, and to certain groups of parents. The law calls for schools to provide information and notices in a uniform and understandable format and to the extent practicable, in a language that the parents can understand. It is important to note that district accountability measures and reporting expectations differ when determining adequate yearly progress (AYP), reporting student achievement to the state, preparing a district report card, and providing parental notification information. Please note that reporting requirements vary depending upon which federal funds a district receives (i.e. Title I, language instruction, safe and drug-free schools). Listed below are some of these requirements.

Table of Contents

Annual State Report Cards 2
Annual School District Report Cards 3
Parental Notification Under NCLBA 4

The No Child Left Behind resource documents are jointly developed by NSBA's Office of General Counsel, Advocacy, and Federation Member Services departments.

Julie Underwood,
General Counsel
703-838-6710
junderwood@nsba.org

Karla Schultz, Manager,
Resource Exchange
Network, Educational
Services
703-838-6200
kschultz@nsba.org

National School Boards Association
1680 Duke Street
Alexandria, VA 22314
703-838-6722
www.nsba.org

Copyright © 2002 National School Boards Association. All rights reserved. Permission granted to NSBA federation members to reprint NSBA *No Child Left Behind Act:* Notification and Reporting Requirements for Local School Boards, August 2002.

Annual State Report Cards

Local school districts will need to make the following data available to the designated state education authority to meet the NCBLA state reporting requirements:

1. Information on student achievement at each proficiency level on the state academic assessments. The information must be aggregated and disaggregated by the following:

    - student gender
    - student migrant status
    - economically disadvantaged students
    - students from major ethnic and racial groups
    - students with disabilities
    - students with limited English proficiency

    Disaggregation is not required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student.

2. Information that compares the achievement levels of each group of students to the state's annual measurable objectives for each group of students on each of the academic assessments.

3. The percentage of students not tested (disaggregated by subgroups).

4. The most recent two-year trend in student achievement in each subject area and for each grade level for which assessments are required.

5. Aggregate information on any other indicators used by the state to determine the adequate yearly progress of students in achieving state academic achievement standards.

6. Graduation rates for secondary students (disaggregated by subgroups).

7. The performance of the district towards reaching adequate yearly progress, including the number and names of each school identified for school improvement.

8. The professional qualifications of teachers in the district, the percentage of such teachers teaching with emergency or provisional credentials, and the percentage of classes not taught by highly qualified teachers, in the aggregate and disaggregated by high poverty (top quartile of poverty) compared to low poverty schools (bottom quartile of poverty).

9. Other data that the state has determined will best provide parents, students, and other members of the public with information regarding the progress of each of the state's public schools.

Annual School District Report Cards

Local school districts that receive Title I funds are required to prepare and disseminate an annual local education agency (district) report card. The report card must be disseminated during the 2002/2003 school year, and must be provided to all schools in the schools district. Additionally, the report card must be disseminated to all parents of students attending those schools in an "understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand." The report card must be made widely available through public means, such as posting on the Internet, distribution to the media, and distribution through public agencies. Data required for district reports cards:

1. For the district, and by individual school, information on student achievement at each proficiency level on the state academic assessments. The information must be aggregated and disaggregated by the following:
   - student gender
   - student migrant status
   - economically disadvantaged students
   - students from major ethnic and racial groups
   - students with disabilities
   - students with limited English proficiency

   Disaggregation is not required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student.
2. Student achievement at the basic, proficient, and advanced levels on state assessments.
3. The number and percentage of schools identified for school improvement and how long the schools have been so identified.
4. Information that demonstrates how district students in the aggregate achieved on the state assessment(s) as compared to students in the state as a whole.
5. For each school, information that shows how the school's students achieved on the statewide academic assessments and other indicators of adequate yearly progress compared to other students in the district and the state as a whole.
6. For each school, whether the school has been identified for school improvement.
7. The percentage of students who were not tested, disaggregated by subgroup.
8. For secondary schools, graduation rates, disaggregated by subgroup.
9. The professional qualifications of district teachers in the aggregate and by school. Professional qualifications include the percentage of such teachers teaching with emergency or provisional credentials, and the percentage of classes not taught by highly qualified teachers, in the aggregate and disaggregated by high poverty (top quartile of poverty) compared to low poverty schools (bottom quartile of poverty).

Parental Notification Under NCLBA

The No Child Left Behind Act (NCBLA) requires schools to give parents many different kinds of information and notices in a uniform and understandable format, and to the extent practicable, in a language that the parents can understand. Listed below are some of the requirements that are in addition to the district's annual report card. (It includes only those notices that must be made to parents by school districts or individual public schools.)

1. At the beginning of each school year, school districts that receive Title I funds must notify parents (of each student attending every school receiving Title I funds) that they may request, and the district will provide parents on request (and in a timely manner), information regarding the professional qualifications of the student's classroom teachers, including the following:
   - whether the teacher has met state licensing criteria for the grade level(s) and subject area(s) taught
   - whether the teacher is teaching under emergency or provisional status through which state licensing criteria have been waived
   - the undergraduate degree major of the teacher, and any graduate certification or degree held by the teacher, including the field of discipline of the certification or degree
   - if the child is provided services by paraprofessionals, their qualifications
2. A school that receives Title I funds must provide each parent information on the achievement level of their child on each of the state academic assessments as soon as is practicably possible after the test is taken. Such a school must also give timely notice that the parent's child has been assigned or has been taught for four or more consecutive weeks by a teacher who is not highly qualified.
3. A school district that uses federal funds to provide a language instruction education program for children with limited English proficiency must, no later than 30 days after the beginning of the school year, give the parent(s) of each child identified for participation or participating in such a program the following information: why the child is placed in the program; the child's level of English proficiency, how that level was determined and the status of the child's academic achievement; methods of instruction in the program in which their child is placed and those of other available programs; how the program will meet the educational needs of their child; how the program will help their child learn English and meet age-appropriate academic achievement standards for grade promotion and graduation; the specific exit requirements for the program; in the case of a child with a disability, how the program meets the child's IEP objectives; and information about parental rights. For a child not identified as limited English proficient prior to the beginning of the school year, the district must notify parents within the first two weeks of the child being placed in such a program.
4. A school district receiving Title 1 funds must promptly notify parents of each student enrolled in an elementary or secondary school identified for improvement, corrective action or restructuring that the school has been so identified. The notification should also include:
   - an explanation of what the identification means
   - how the school compares in terms of academic achievement with other schools in the district and in the state
   - the reasons for the identification
   - what the school is doing to address low achievement
   - what the district and state will do to help the school

- how the parents can become involved in addressing the school's academic issues
- an explanation of the parents' option to transfer their child to another public school or to obtain supplemental educational services for the child

If a school is subject to restructuring, the district must promptly notify the teachers and parents and provide them an opportunity to comment before any action is taken and to participate in developing any restructuring plan.

5. If a school fails to make adequate yearly progress according to certain statutory timetables, the district must make supplemental educational services available to eligible children in the school. The district must provide annual notice to parents of the availability of these services, the identity of approved providers of these services and a brief description of the services, qualifications and demonstrated effectiveness of each provider.

6. A district receiving Title I funds and each school served under Title I must jointly develop with and distribute to parents of children participating in Title I programs a written parental involvement policy. If a school or district has a parental involvement policy that applies to all parents, it may amend the policy to meet the requirements under the NCLBA. Schools must:

   - hold at least one annual meeting for Title I parents
   - offer a flexible number of meetings
   - involve parents in an ongoing manner in the planning, review and improvement of Title I programs
   - provide Title I parents with information about the programs, a description and explanation of the curriculum, forms of academic assessment
   - if requested, opportunities for regular meetings to discuss the education of their children
   - develop a school-parent compact that outlines the responsibilities of each party for improved student academic achievement

7. A district receiving safe and drug-free school program funds must inform and involve parents in violence and drug prevention efforts. The district must make reasonable efforts to inform parents of the content of safe and drug-free school programs and activities other than classroom instruction. If a parent objects in writing, the district must withdraw the student from the program or activity.

8. If a district or school receives a federal grant to fund a voluntary school choice program, it must promptly notify parents of students in the area to be served by the program of the program's availability and a clear explanation of how the program will operate.

9. A district must make reasonable efforts to inform parents and the public about their right to access to all assessment data (except personally identifiable information), questions and current assessment instruments. Districts, schools and students may voluntarily participate in the National Assessment of Educational Progress. Parents of children selected to participate in any NAEP assessment must be informed before the assessment is administered that their child may be excused from participation for any reason, is not required to finish any assessment and is not required to answer any test question.

10. Districts receiving federal education funds must notify parents of secondary school students that they have a right to request that their child's name, address and telephone number not be released to a military recruiter without their prior written consent. Districts must comply with any such request.

11. To be eligible for federal funds for programs assisting the education of homeless children, a district must provide written notice to the parents of each child enrolled in a separate school for homeless children of the choice of schools that homeless children are eligible to attend. They should also be notified that no homeless child is required to attend a separate school, and that homeless children must be provided transportation services, educational services and meals through school meal programs comparable to those offered to other children in the school attended. The notice must also include contact information for the local liaison for homeless children and the state coordinator for education of homeless children.

12. A district must develop and adopt policies regarding the rights of parents to inspect third party surveys before they are distributed to students and take measures to protect student privacy when surveys ask for certain sensitive information; parental right to inspect any instructional materials; administration of physical examinations or screening of students; collection, disclosure or use of personal information from students for the purpose of marketing or selling that information; and the parental right to inspect any instrument used to collect personal

Copyright © 2002 National School Boards Association. All rights reserved. Permission granted to NSBA federation members to reprint NSBA *No Child Left Behind Act:* Notification and Reporting Requirements for Local School Boards, August 2002.

The No Child Left Behind Act

SUMMARY OF KEY PROVISIONS

Introduction

The purpose of this document is to provide a summary of the No Child Left Behind Act of 2001 (the NCLB or Act). Given the scope of the NCLB, which is nearly 700 pages long, this document is not intended to accurately reflect all of the nuances of the Act (including areas of potential flexibility); rather, it is intended to provide a roadmap regarding the NCLB's programs and requirements. Much of the language presented below has been taken from summaries and other materials prepared by the U.S. Department of Education (the Department), and we are continuing to verify and enrich the information to make it most useful and accurate.

Overview of the No Child Left Behind Act (the NCLB)

The NCLB was signed into law on January 8, 2002. The Act amends the Elementary and Secondary Education Act of 1965 (ESEA) and controls the vast majority of federal programs and spending affecting K-12 education, with FY 2002 appropriations totaling approximately $22 billion. The NCLB contains countless new provisions and requirements, many of which are both vague and untested. A lot will depend on implementation at both the federal and state levels. The Department is working rapidly to produce regulations and policy guidance on key NCLB provisions, and to release grant applications and guidelines.

The most significant changes contained in the NCLB appear in Title I – the main Title of the Act – which governs federal support for high-poverty students and schools. Title I, Part A requires that every state, as a condition of receiving federal funds, establish standards and assessments (in language arts, mathematics, and, ultimately, science), test nearly every student in nearly every grade, and publicly report performance data for purposes of school accountability. Schools, districts, and states that fail to demonstrate "adequate yearly progress" in improving student proficiency and closing achievement gaps face a series of escalating consequences. Title I and other titles of the NCLB also address key federal programs and requirements related to issues such as reading, teacher quality, programs for English language learners (ELL students), school safety, technology, and more.

Importantly, the NCLB contains many requirements that have immediate implications. For example, the following requirements are scheduled (absent Department action) to take effect in Fall 2002 or earlier:

- All newly hired Title I teachers must be "highly qualified" as defined in the Act, and all newly hired paraprofessionals must also meet qualification defined in the Act.
- States must define adequate yearly progress (AYP) and establish an initial proficiency threshold for determining whether schools meet AYP. The initial threshold must be at a minimum the higher of the percent of students proficient in the statewide lowest achieving subgroup or the school at the 20th percentile in the State.
- States must annually assess English proficiency of ELL students.
- States must participate on a biennial basis in NAEP reading and math tests for 4th and 8th grade.
- States and LEAs must produce annual report cards on progress of students in meeting state standards, graduation rates, names of schools needing improvement, professional qualifications of teachers, and percentages of students not tested.
- States must submit to the Secretary in summary form state report cards.
- States must use 2 percent of their Title I, Part A funds for school improvement.
- States and LEAs must annually report on progress toward having all teachers "highly qualified" by the end of the 2005-06 school year. LEAs submit reports to their SEA, and SEAs submit their reports to the Secretary.
- The Secretary must annually report on the progress of states and LEAs on having all teachers highly qualified by the end of the 2005-06 school year.
- Schools previously identified as in the first year of school improvement under the previous ESEA must begin offering public school choice program. LEAs with any such schools must spend a minimum of 5 percent of their Title I allocation on transportation for such choice. LEAs may spend up to an additional 10 percent of their Title I funds. As part of two-year School Improvement plan, LEAs must spend at least 10 percent of their Title I, Part A funds on professional development.
- Schools previously identified as in the second year of school improvement or corrective action under previous ESEA law will be required to provide public school choice and supplemental educational services. LEAs with any such schools must spend a minimum of 5 percent of their Title I allocation on supplemental services. LEAs may spend up to an additional 10 percent of their Title I funds on supplemental services (with an overall limit of 20 percent combined for public school choice transportation and supplemental services). As part of two-year School Improvement plan, LEAs must spend at least 10 percent of their Title I, Part A funds on professional development.
- LEAs receiving Title I Part A funds must spend between 5-10 percent of such funds on professional development activities to ensure that teachers who are not highly qualified become highly qualified by end of 2005-06 school year.

The following chart provides an overview of the NCLB's key titles, programs, and requirements:

Major Titles	Description of Programs/Provisions	FY 2002 Funding	Allocation Method
I. Improving Achievement of Disadvantaged	• The major Title providing federal funds for K-12 education.		
A. Improving Basic Programs Operated by LEAs	• Title I, Part A is designed to provide districts w/ extra resources to improve instruction in high poverty schools, and to ensure that poor and minority students have the opportunity to achieve high standards. It requires that states set high standards, design assessments aligned w/ those standards, and hold schools accountable for making "adequate yearly progress" in student performance. It also requires detailed school, district, and state report cards efforts regarding teacher quality, testing of ELL students on English proficiency, and more. This Part includes four major funding mechanisms: (1) Basic Grants to LEAs ($7.17B); (2) Concentration Grants to LEAs ($1.37B); Targeted Grants to LEAs ($1B); and Education Finance Incentive Grants ($793.5M). The Act also authorizes Local School Improvement Grants.	$10.3B	• Funding to states based on four separate Grant formulas. Targeted Grants and Incentive Grants funded for first time and more targeted toward high-poverty schools. States must reserve 2% of Title I funds in 2002-03 and 4% in 2004-07 for grants to LEAs for technical assistance for schools in school improvement, corrective action, etc. • LEAs receive allocation based primarily on count of poor children.
	• *State Plans*: Each state is required to submit a plan to the Secretary that describes how the state will comply with various requirements regarding the establishment of state academic standards, assessments, accountability systems, school, district, and state report cards, and more (as discussed in the cells below). [§1111] (Each district must in turn submit a plan to the State.) [§1112]		
	• *Standards and Assessments*: Each state is required to adopt challenging academic content and achievement standards that apply to all schools in the areas of language arts, mathematics, and science, and to develop valid assessments aligned with those standards. States are currently required to assess students in language arts and mathematics at least once in grades 3-5, 6-9, and 10-12. In 2007, states will be required to test students in science to the same degree. Moreover, in 2005, states will be required to tests students *annually* in mathematics and language arts in grades 3-8. (These requirements shall not apply if Congress fails to appropriate funds above a trigger amount to support state efforts, which was $370M for FY2002.) [§1111]	$387M	

Major Titles	Description of Programs/Provisions	FY 2002 Funding	Allocation Method
	• *Accountability for "Adequate Yearly Progress" (AYP)*: Each state is required to establish a single accountability system that requires schools, districts and states to demonstrate AYP in student performance based primarily on state assessments. Each state's starting point for judging AYP is set in 2001-02 at the greater of either the percentage of proficient students in the lowest performing subgroup or the percentage in the school at the 20th percentile statewide. AYP is then based primarily on the annual increase required to raise student proficiency from that initial level to 100% proficiency in 12 years. To demonstrate AYP each school, LEA, and state must demonstrate AYP for students its overall and for each major subgroup, disaggregated by race, ethnicity, poverty, disability, and limited-English proficiency (i.e., each subgroup must perform at a greater percentage proficiency level than the state AYP bar for that year). (There is a fallback for schools that fail to meet AYP for a subgroup(s) if the percentage of students not reaching proficiency decreased by at least 10%). Moreover, to demonstrate AYP, at least 95% of students overall and from each subgroup generally must participate in the assessments. [§1111]		

Major Titles	Description of Programs/Provisions	FY 2002 Funding	Allocation Method

	• *School Improvement and Corrective Actions*: Schools, districts, and States that fail to demonstrate AYP shall receive technical assistance from the LEA and the state but also face a series of escalating consequences (w/ one-year delay permitted before Levels 2-4 in extraordinary circumstances). [§1116(b)] (Related provisions apply to LEAs that fail to achieve AYP. [§1116(c)])
	  ◦ *Level 1*: Schools that fail to achieve AYP for two consecutive years are placed in "*school improvement*" status; they must develop a school improvement plan, be provided technical assistance from the district, and give students the option to transfer to another public school in the district.
	  ◦ *Level 2*: Schools that fail to achieve AYP for three consecutive years remain in improvement status, but students now have the option of using their share of federal Title I funds to pay for *supplemental education services*, which may be provided by state-approved providers.
	  ◦ *Level 3*: Schools that fail to achieve AYP for four consecutive years are placed in "*corrective action*"; public school choice and supplemental services remain, but the school must also make one fundamental change from a list of options, such as replacing staff, instituting a new curriculum, decreasing school management authority, appointing outside experts, etc.
	  ◦ *Level 4*: Schools that fail to achieve AYP for five consecutive years are placed in "*restructuring*"; public school choice and supplemental services remain, but the school must *plan* for "alternative governance" and, after *six* consecutive years below AYP, be placed under alternative governance, such as reopening as a charter school, contracting with a private management company, etc.
	• Schools that were in the first year of school improvement under the 1994 law (as identified by the state) were deemed by the NCLB to be in Level 1 above. Schools in the second year of school improvement under the 1994 law were deemed to be in Level 2. Schools that were in corrective action under the 1994 law were deemed to be in Level 3. States are required (for the first time) to report in Fall 2002 on the schools in "improvement" status. [§1116] Based on prior underperformance under the 1994 ESEA, it is *estimated* by the Department that more than 8,000 schools are already at Levels 1 or 2.		

BEST COPY AVAILABLE

Major Titles	Description of Programs/Provisions	FY 2002 Funding	Allocation Method
	- *School Support and Recognition*: States are required to provide support and assistance to LEAs with schools under improvement or corrective action and to reward schools that excel in achieving AYP [§1117]		
	- *Assessments of English Language Proficiency*: Each State plan shall demonstrate that, beginning in 2002-03, each district will conduct annual assessments of English proficiency for ELL students. [§1111] [Title III requires that state establish separate accountability systems to demonstrate AYP in English proficiency.]		
	- *Annual Report Cards*: Beginning Fall 2002, each state and district shall issue annual report cards containing various information (down to the individual school level), disaggregated by major subgroups. Required information includes student proficiency levels, rates of participation on assessments, graduation rates, teacher qualifications, and more LEAs must also report what schools are under school improvement, corrective action, etc. [§1111]		
	- *Qualifications for Teachers and Paraprofessionals*: Beginning Fall 2002, all newly hired teachers teaching in a program supported with Title I, Part A funds must be "highly qualified" as defined in the Act. States and LEAs must also develop plans, issue annual reports, and dedicate funds to ensure that by 2005-06 all teachers teaching in core academic subjects are "highly qualified." Similar requirements apply to new paraprofessionals. Beginning January 2002, all newly hired paraprofessionals working in a program supported with Title I, Part A funds must meet certain quality requirements, and LEAs must ensure that all paraprofessionals are so qualified by 2005. [§1119]		
	- *Parental Involvement*: Each LEA is required to develop a written parent involvement policy and to reserve funds for parental involvement activities. Each school is required to develop and disseminate a written parent involvement policy, establish mechanisms for parental involvement, establish school-parent compacts, and more. [§1118]		
	- *Schoolwide Programs*: An LEA may consolidate and use funds together to upgrade the entire educational program of a school that serves an eligible school attendance area in which not less than 40% of the children are from low-income families [reduced from 50% under prior law].		

Major Titles	Description of Programs/Provisions	FY 2002 Funding	Allocation Method
B. Reading Skills Improvement	• Title I, Part B consists of four different federal reading programs.		
	• *Reading First*: Creates a new authority (replacing the Reading Excellence Act) to help States and LEAs utilize scientifically based reading research to implement comprehensive reading instruction for children in kindergarten through third grade; most of the funds available to each State will be distributed by formula; States would award subgrants to local communities on a competitive basis. Requires subgrantees to select and administer screening, diagnostic, and classroom-based instructional reading assessments to determine which students in kindergarten through grade 3 are at risk of reading failure. Also requires subgrantees to provide professional development, for teachers of students in kindergarten through grade 3 and special education teachers of students in kindergarten through grade 12, in the essential components of reading instruction.	$900M	• Funds are allocated by formula based on States' relative share of low-income children. • Subgrants are awarded competitively to eligible LEAs by the SEA, with priority to eligible LEAs with low-income students.
	• *Early Reading First*: Authorizes the Secretary to make competitive awards for up to 6 years to support local efforts to enhance the early language, literacy, and pre-reading development of preschool-age children, particularly those from low-income families, through strategies and professional development that are based on scientifically based reading research. Eligible entities include LEAs eligible to receive a subgrant under the Reading First State Grants program and/or one or more public or private organizations located in a community served by an LEA eligible to receive a Reading First State Grants subgrant.	$75M	• Competitive awards to eligible entities.
	• *Even Start Family Literacy*: This program supports family literacy programs that integrate early childhood education, adult education, parenting education, and literacy activities for low-income families, including parents eligible for services under the Adult Education and Family Literacy Act and their children from birth through age 7.	$250M	• Formula allocations are based on each State's current-year share of Title I, Part A funds. • SEAs make competitive subgrants to partnerships of LEAs and other organizations, giving priority to proposals that target high-poverty areas.
	• *Literacy through School Libraries*: New program authorizing $250 million to assist schools in providing students with access to: (1) up-to-date school library materials; (2) technologically advanced school library media centers; and (3) professionally certified school library media specialists.	$12.5M	• At appropriations levels below $100 million, the Secretary makes one-year awards directly to eligible LEAs. • At appropriations levels at or above $100 million, the Secretary makes formula awards based on each State's prior-year share of Title I, Part A. • Within State, competitive awards to eligible LEAs.
C. Migratory Children	• Retains, without major changes, the current program to provide financial assistance to SEAs to establish and improve programs of education for children of migratory farmworkers and fishers	$396M	• Funds are allocated to States through formula on the basis of each State's per-pupil expenditure for education and its count of migratory children • SEA provides services directly or through subgrants to local operating agencies, which can be either LEAs or other nonprofit private agencies

Major Titles	Description of Programs/Provisions	FY 2002 Funding	Allocation Method
D. Neglected or Delinquent Youth	• Retains, with a few changes, the current program to provide financial assistance to: (1) State educational agencies for educational services to neglected and delinquent children and youth under age 21 in State-run institutions for juveniles and in adult correctional institutions, and (2) local educational agencies for educational services to children and youth in local correctional facilities and to other at-risk populations.	$48M	• Funds are allocated to States through a formula based on the number of children in State-operated institutions and per-pupil education expenditures. • SEA makes subgrants to each state agency based on its proportionate share of the States adjusted enrollment count of N or D children.
E. National Assessment of Title I	• Retains major features of current law, including requirements for a National Assessment of Title I, an Independent Review Panel to advise on the conduct of the National Assessment, and a longitudinal evaluation of program effectiveness (This Part also includes funds for Close Up Fellowships ($1.5M).)	$8.9M	• N/A
F. Comprehensive School Reform	• Retains, without major changes, the current program to support the development, adoption, and implementation of comprehensive school reforms that are based on reliable research and effective practice and that will improve the academic achievement of children in participating schools.	$235M	• Formula based on each State's prior-year share of Title I Basic Grants • Competitive awards to LEAs that receive funds under Part A of Title I, with a priority for LEAs planning to use funds in schools in improvement or corrective action under Title I.
G. Advanced Placement Programs	• Reauthorizes the Advanced Placement Incentive program (currently authorized by the Higher Education Amendments of 1998) as Part G of Title I of the ESEA. The purpose of the program is to increase the number of low-income students participating in Advanced Placement classes and taking Advanced Placement tests. The reauthorization replaced the old formulation with two separate programs – (1) the *AP Test Fee Program* to help cover the costs of test fees for low-income students, and (2) the *AP Incentive Program Grants* to support activities designed to increase access to Advanced Placement classes for low-income students.	$22M	• Allocations to States under the Test Fee program are based on the number of low-income students in the State in relation to the number of such students in all States. • Grants under the Incentive program are competitive. Eligible entities include LEAs and national nonprofits with expertise in AP services.
H. School Dropout Prevention	• Authorizes $125 million for a new program to assist schools with high dropout rates to implement dropout prevention programs. Requires grantees to use funds to implement research-based, sustainable, and coordinated school dropout prevention and reentry programs. Identifies 10 allowable activities, including: professional development; reduction in pupil-teacher ratios; counseling and mentoring for at-risk students; and implementing comprehensive school reform models.	$10M	• At appropriations levels of $75 million or less, authorizes competitive awards to States or LEAs. • At appropriations levels greater than $75 million but less than $250 million, authorizes competitive awards to States, with the States, in turn, making subgrants to eligible LEAs. • At appropriation levels of $250 million or more, authorizes formula grants to States, with States, in turn, making subgrants to eligible LEAs.

Major Titles	Description of Programs/Provisions	FY 2002 Funding	Allocation Method
II. High Quality Teachers and Principals			
A. Teacher and Principal Training and Recruitment	• Authorizes a new State formula grant program that combines the Eisenhower Professional Development State Grants and Class-Size Reduction programs into one program that focuses on preparing, training, and recruiting high-quality teachers and principals. Allows LEAs increased flexibility to allocate funds among professional development, class-size reduction, and other teacher quality activities, without the requirements that are in current law. New State activities include, among others, reforming teacher and principal certification/licensing requirements, alternative routes to State certification, teacher and principal recruitment and retention initiatives, reforming tenure systems, teacher testing, and merit pay. New local activities include, among others, teacher and principal recruitment and retention initiatives, signing bonuses and other financial incentives, teacher and principal mentoring, reforming tenure systems, merit pay, teacher testing, and pay differentiation initiatives. Allows LEAs to use program funds to reduce class size, and does not limit the use of program funds for class-size reduction activities in grades 1 through 3, as current law does.	$2.85B	• Funds are allocated by formula, with each State first receiving its FY 2001 amount for the Eisenhower Professional Development State Grants and Class-Size Reduction programs. Remaining funds are allocated based on child population and poverty rates. • Subgrants to LEAs are suballocated by formula (w/ 95% of state funds flowing to LEAs). LEAs first receive the amount they received in FY 2001 for the Eisenhower Professional Development State Grants and Class-Size Reduction programs. Remaining funds are allocated based on child population and poverty rates.
B. Math and Science Partnerships	• New program authorizing $450 million for competitive 3-year grants to partnerships for activities to improve the academic achievement of students in the areas of mathematics and science. Eligible partnerships include an SEA (if the Secretary awards the grants); an engineering, math, or science department of an IHE; and a high-need LEA. They may include another engineering, math, science, or teacher training department of an IHE; additional LEAs, public charter schools, or public or private schools; a business; or a nonprofit or for-profit organization of demonstrated effectiveness in improving the quality of math and science teachers. Authorizes grantees to use funds to: (1) develop or redesign more rigorous math and science curricula; (2) provide professional development for teachers designed to improve their subject knowledge; (3) promote strong teaching skills that include those based on scientific research and technology-based teaching methods; (4) operate summer workshops or institutes; (5) recruit math, science, and engineering majors into teaching; (6) establish distance learning programs; (7) design programs to prepare teachers to mentor other teachers; (8) operate programs to bring math and science teachers into contact with working scientists, mathematicians, and engineers; (9) design programs to identify and develop exemplary math and science teachers in grades K-8; and (10) develop programs to encourage young women and other underrepresented groups to pursue careers in math, science, engineering, and technology.	$12.5M	• At appropriation levels below $100 million, the Secretary makes competitive awards directly to eligible partnerships. • At appropriation levels at or above $100 million, formula allocations to States based on each State's share of children age 5 to 17 from families with incomes below the poverty line, with states making competitive awards to eligible partnerships.

BEST COPY AVAILABLE

Major Titles	Description of Programs/Provisions	FY 2002 Funding	Allocation Method
C. Innovation for Teacher Quality	• *Troops for Teachers*: Authorizes the funding and administration of the Troops-to-Teachers program, which was previously authorized as part of the National Defense Authorization Act for fiscal year 2000.	$18M	• Authorizes the Secretary to award program funds to SEAs, IHEs, or consortia of those entities
	• *Transition to Teaching*: Authorizes competitive 5-year grants to partnerships and eligible entities to establish programs to recruit and retain highly qualified mid-career professionals and recent college graduates as teachers in high-need schools, including recruiting teachers through alternative routes to certification, and to encourage alternative routes to certification under State-approved programs that enable individuals to be eligible for teacher certification within a reduced period of time. Eligible partnerships include an SEA; a high-need LEA; a nonprofit or for-profit organization that has a proven record of effectively recruiting and retaining highly qualified teachers, in partnership with a high-need LEA or an SEA; an IHE, in partnership with a high-need LEA or an SEA; a regional consortium of SEAs; or a consortium of high-need LEAs. Authorizes funds to be use for a variety of purposes. Requires program participants to teach in high-need schools.	$35M	• Competitive award to eligible participants.
	• *Teacher Liability Protection*: Limits financial liability of teachers for harm they may cause acting on behalf of the school in disciplining students or maintaining classroom order. Extends protections to teachers, administrators, school professionals, nonprofessional employees responsible for maintaining discipline and safety, and individual school board members.	N/A	• N/A
D. Enhancing Education through Technology	• *State and Local Technology Grants*: Consolidates the current Technology Literacy Challenge Fund (TLCF) and Technology Innovation Challenge Grant programs into a single State formula grant program to support the integration of educational technology into classrooms to improve teaching and learning. Requires each State to award half of the amount available for LEAs through a formula based on Title I shares and half through a competitive process. Currently, States award the entire amount available for LEAs through a competitive process. Requires LEAs to make competitive awards to high-need LEAs or partnerships that include a high-need LEA and at least one entity, including for-profit businesses that can assist the high-need LEA to integrate technology effectively into classroom instruction. Requires each LEA receiving formula funds to use at least 25 percent of its formula allocation for high-quality professional development activities to prepare teachers to integrate technology into instruction. (The current statute does not have a similar requirement.) Allows States to exempt from this requirement an LEA that can demonstrate that it already provides high-quality professional development in the integration of technology into instruction.	$700.5M	• Formula allocations based on each State's current-year share of Title I, Part A funds. • Requires States to award one-half of the amount available for LEAs by formula based on each LEA's prior-year share of Title I, Part A. States must use the remaining funds for competitive awards to high-need LEAs or partnerships that include high-need LEAs.

Major Titles	Description of Programs/Provisions	FY 2002 Funding	Allocation Method
III. Language Instruction for ELL Students			
A. English Language Acquisition	• Consolidates the 13 current bilingual and immigrant education programs into a State formula program and significantly increases flexibility and accountability. (Most of the consolidation is accomplished only if the appropriation is at least $650 million. If not, then Title III, Part B (below) goes into effect.) Maintains the current focus on assisting school districts in teaching English to limited English proficient students and in helping these students meet the same challenging State standards required of all other students.	$665M	• If the appropriation exceeds $650 million, authorizes formula awards to States based on the State's share of LEP and recent immigrant students. • States make competitive subgrants to LEAs. If a State does not apply, the Secretary makes competitive awards directly to districts. States can reserve up to 15 % for districts that have experienced significant increases in immigrant students or that have limited experience serving immigrant students.
B. Improving ELL Programs	• This subpart only goes into effect if Title III, Part A (above) is not in effect b/c the trigger appropriation of $650M was not met. In that case, this subpart continues to authorize three discretionary grant programs for instructional services, three support services programs, four professional development programs, and Immigrant Education formula grants. These programs are similar to those in the previous law.	N/A	

BEST COPY AVAILABLE

Major Titles	Description of Programs/Provisions	FY 2002 Funding	Allocation Method
IV. 21st Century Schools			
A. Safe and Drug-Free Schools	• Retains, with some changes, State formula grants and national discretionary activities for drug and violence prevention. Requires local prevention programs to meet principles of effectiveness. Requires LEAs that receive SDFSC funds to have a plan for keeping schools safe and drug-free that includes appropriate and effective discipline policies, security procedures, prevention activities, a student code of conduct, and a crisis management plan for responding to violent or traumatic incidents on school grounds. Retains the 20 percent cap on the amount of SDFSC funds LEAs may spend for school security-related activities, but doubles this cap to 40 percent for funds used to hire and train school security personnel. Establishes some new grant programs to LEAs for mentoring, alcohol reduction, etc. • Requires (in Title IX General Provisions) States to allow students who attend a persistently dangerous school, or who become a victim of a violent crime at school, to transfer to a safe school; requires States to report on school safety to the public; and requires school districts to implement drug and violence prevention programs of demonstrated effectiveness.	$472M	• State grant allocations are based 50 percent on the Title I concentration grants formula and 50 percent on population, with a hold-harmless to ensure that no State receives less in 2002 or future years than it received in 2001. Governors may elect to receive up to 20 percent of their State's allocation; remainder goes to the SEA. • SEA allocations to LEAs are based 60 percent on Title I basic and concentration grants, and 40 percent on enrollment. • Some discretionary grants from Secretary to LEAs
B. 21st Century Community Learning Centers	• The purpose of the program is to provide academic enrichment activities to students, particularly students who attend low-performing schools, to help them meet State and local standards. To ensure that centers operate high-quality programs, local grantees are required to develop programs that meet specified principles of effectiveness. The reauthorized 21st Century Community Learning Centers program will: (1) allocate funds to States by formula; (2) target funds to schools with the greatest need; and (3) require centers to provide academic enrichment activities. Allows community-based organizations (which would include faith-based organizations) and other public or private entities, in addition to local educational agencies, to compete for program funds.	$1B	• Formula based on each State's prior-year share of Title I, Part A. • Competitive awards to eligible entities.
C. Environmental Tobacco Smoke	• Prohibits smoking in any indoor facility, or part thereof, used for kindergarten, elementary, or secondary education or library services to children.	N/A	• N/A

Major Titles	Description of Programs/Provisions	FY 2002 Funding	Allocation Method
V. School Choice and Innovative Programs			
A. Innovative Programs	• Retains, with a few changes, the previous Title VI Innovative Education State Grants program that provides flexible funds to States and LEAs for innovative educational programs. Adds a host of new allowable SEA and LEA activities, such as support of charter schools, professional development, etc.	$385M	• Funds are allocated by formula based on States' relative share of the school-age population. • States must allocate at least 85 % of their funds to LEAs based on the relative enrollments in public and private schools, adjusted to account for high-cost students.
	• *Charter Schools Program*: Retains, with a few changes, the Charter Schools grants program that awards grants to State educational agencies (SEAs) and charter schools to support the planning, design, and initial implementation of charter schools. • Authorizes a new *Per-Pupil Facilities Aid Grants* program of competitive 5-year grants to States with already established per-pupil aid programs to assist charter schools with their school facility costs. These State programs must be specified in State law and provide annual funding on a per-pupil basis for charter school facilities; the financing must include, or be dedicated solely for, the funding of facilities. Federal funds may be used to match funds for State per-pupil facility aid programs. The Federal share of funds decreases each year (from 90 percent in the first year to 20 percent in year 5) and phases out entirely after 5 years.	$200M	• Authorizes the first $200 million for the regular Charter School Grant program and the next $100 million for the Per-Pupil Facilities grants. At appropriations levels above $300 million, funds are evenly divided. • For Charter Schools Program, competitive grants to SEAs that have the authority, under the law, to approve charter schools. SEAs, in turn, make competitive grants to charter schools. If SEA chooses not to compete, charter schools in the State may apply directly to the Secretary. • For Per-Pupil Facilities Aid Program – Competitive awards to SEAs that, in turn, make formula grants to charter schools on a per-pupil basis.
	• *Credit Enhancement to Assist Charter School Facilities*: Authorizes grants for innovative credit enhancement initiatives to help charter schools with the cost of acquiring, constructing, and renovating facilities. The language is almost identical to the Charter Schools Facilities Financing Demonstration program authorized in the 2001 appropriations act. Eligible entities include private, non-profit, organizations; governmental entities; and consortia of these two types of entities.	$0	• Awarded competitively to eligible entities. Requires Department to award at least three grants (unless funding is insufficient), with at least one grant each to the three types of eligible entities as long as the Department receives sufficient applications. Grant recipients identify charter schools to benefit from leveraged grant funds.

Major Titles	Description of Programs/Provisions	FY 2002 Funding	Allocation Method
	• *Voluntary Public School Choice*: Authorizes competitive awards of up to 5 years to establish or expand programs that provide students and parents with greater public school choice. Grantees may use up to one year for planning or program design. Eligible entities include SEAs, LEAs, or partnerships that include at least one SEA or LEA working in cooperation with public, for-profit, or non-profit entities. Authorizes grantees to use program funds to: (1) plan the public school choice program; (2) make tuition transfer payments to the schools that students choose to attend; (3) increase the capacity of high-demand schools to serve greater numbers of students (except that program funds cannot be used for school construction); (4) carry out public information campaigns to inform parents and students about public school choice opportunities; and (5) pay other costs reasonably necessary to implement a public school choice program. Requires grantees to provide participating students with transportation, or pay transportation costs, to their school of choice. Student participation in each program must be voluntary. Also requires that, when more students apply to participate in the program than can be accommodated, grantees must select students to participate on the basis of a lottery.	$25M	• Competitive awards to eligible entities.
C. Magnet Schools	• Retains the current Magnet Schools Assistance program, which provides grants to establish and operate magnet schools in local educational agencies that are under a court ordered or federally-approved voluntary desegregation plan to eliminate, reduce, or prevent minority group isolation in elementary and secondary schools.	$110M	• Competitive grants to LEAs or consortia of LEAs with court-ordered or federally approved voluntary desegregation plans.
D. Fund for Improvement of Education	• The Fund for the Improvement of Education (FIE) supports various programs, including activities to promote systemic education reform at the State and local levels, recognition programs, scientifically based studies and evaluations of education reform strategies, activities to support Scholar-Athlete Games, programs to promote voter participation in American elections, demonstrations of the effectiveness of school district or school contracts with private management organizations to reform schools, and other programs that meet the purposes of the Act.		• Discretionary grants.

Major Titles	Description of Programs/Provisions	FY 2002 Funding	Allocation Method
	• This Part also establishes or reauthorizes a series of specific programs, including: (1) the Elementary and Secondary School Counseling Programs; (2) Partnerships in Character Education; (3) Smaller Learning Communities; (4) Reading is Fundamental; (5) Gifted and Talented Students; (6) Star Schools; (7) Ready to Teach; (8) Foreign Language Assistance Program; (9) Carol White Physical Education Program; (10) Community Technology Centers; (11) Excellence in Economic Education; (12) Grants to Improve Mental Health in Children; (13) Arts in Education; (14) Parental Assistance and Local Family Information Centers; (15) Combating Domestic Violence; (16) Healthy, High-Performance Schools; (17) Women's Educational Equity Act; and more.	Varying amounts ranging from $5M to $142M	• Varying methods.

Major Titles	Description of Programs/Provisions	FY 2002 Funding	Allocation Method
VI. Flexibility and Accountability			
A. Improving Academic Achievement [Flexibility]	• Establishes three related flexibility efforts as well as authorizing $490M in grants to assist states in developing and improving the quality of assessments required in Title I, Part A.		
	• *Funding Transferability for SEAs/LEAs*: Allows States and LEAs to transfer up to 50% of administration or other funds under select programs to supplement its allocation under any of those same programs or to carry out Title I, Part A requirements. Identified programs include Teacher Quality State Grants, Educational Technology State Grants, Innovative Programs, Safe and Drug-Free Schools, and more. Specific restrictions apply for LEAs identified as in need of improvement or corrective action.	N/A	• N/A
	• *State and Local Flexibility Demonstration*: Authorizes the Secretary to provide up to 7 States with the authority to consolidate the entire amount available for State-level activities and State administration under various identified programs. Within a State-Flex State, at least 4 and up to 10 LEAs also receive the authority to consolidate their formula allocations under certain Federal programs. These LEAs are subject to the same requirements as LEAs participating in the Local Flexibility Demonstration Program described below, except that they enter into performance agreements with their SEAs rather than the Secretary.	N/A	• N/A
	• *Local Flexibility Demonstration*: Authorizes the Secretary to enter into performance agreements with up to 80 LEAs to enable them to consolidate funds received by formula under the: (1) Teacher Quality State Grants; (2) Educational Technology State Grants; (3) Innovative Programs; and (4) Safe and Drug-Free Schools programs.	N/A	• N/A
B. Rural Education Initiative	• *Small, Rural School Achievement Program*: Retains the current program (renamed) that provides additional formula funds and flexibility in the use of certain Federal funds to small rural districts. • *Rural and Low-Income School Program*: Creates a new program to provide additional funds to rural districts that: (1) are ineligible to participate in the Small, Rural School Achievement program; and (2) serve concentrations of poor students. • Appropriations are to be divided equally between the two programs.	$162.5M	• Small, Rural: Formula to LEAs • Rural, Low-Income: Formula to State; participating States have the option to allocate funds to LEAs through formula or competitive process

Major Titles	Description of Programs/Provisions	FY 2002 Funding	Allocation Method
VII. Indian, Hawaiian Native, and Alaska Native Education			
A. Indian Education	• Retains, with a few changes, current programs to address the educational needs of Native American children, including formula grants to LEAs, discretionary grants, and national activities for research, evaluation, and data collection.	$120.5M	• Formula and competitive grants
B. Native Hawaiian Education	• Consolidates current programs that address the educational needs of Native Hawaiians	$30.5M	• Competitive grants
C. Alaska Native Education	• Retains, with some changes, the current program that addresses the educational and cultural needs of Alaskan Natives. Adds earmarking of funds to certain entities in Alaska.	$24M	• Competitive grants
VIII. Impact Aid	• Reauthorizes the Impact Aid program, which provides financial assistance to local educational agencies (LEAs) affected by Federal activities, such as with regard to military students.	$1.14B	• Formula and competitive grants
IX. General Provisions	• In general, this Title addresses additional statutory and administrative issues, including definitions, flexibility provisions relating use of administrative funds, consolidated state application requirements, Secretarial waivers, uniform provisions, and limitations on the Federal role in education.		

BEST COPY AVAILABLE

Major Titles	Description of Programs/Provisions	FY 2002 Funding	Allocation Method
X. Repeals, Redesignations, and Amendments to Other Statutes	• Potentially important here are the Amendments to Other Statutes, specifically with regard to Part C (Homeless Education) and Part E (Higher Education Act amendments, which establish a new teacher technology initiative)		
	• *Education for Homeless Children and Youth*: Retains, with some changes, the current program to provide grants to States to help ensure that homeless children and youth have access to the same free and appropriate public education, including preschool education, as other children and youth. Prohibits states that receive McKinney-Vento funds from segregating homeless students, except for short periods of time for health and safety emergencies or to provide temporary, special, supplementary services. Requires an LEA (at the request of the parent or guardian) to provide, or arrange for, transportation to the homeless child's school of origin when that school is within the LEA. When the school of origin is in a different LEA from the LEA where the homeless child is living, requires both LEAs to agree on a method for sharing transportation responsibility and costs.		• Formula grants to States • Requires that subgrants to LEAs be awarded competitively
	• *Preparing Tomorrow's Teachers to Use Technology*: Amends Title II of the Higher Education Act of 1965 to authorize grants, contracts, and competitive agreements to consortia for carrying out programs that prepare prospective teachers to use technology to improve student learning, and programs that improve the ability of institutions of higher education to carry out such programs. Funds are awarded only to consortia that include at least one institution of higher education, one State or local educational agency, and one other entity.	$62.5M	• Competitive grants

Education Assessment
INSIDER Compliance, Testing, and Accountability

May 2002 Vol. 1, No. 2
From the editors of *Education Daily*

Legal Lessons

New Legal Requirements for Including Students in Statewide Assessments

**Arthur L. Coleman
and Scott R. Palmer
Nixon Peabody LLP**

The recent headlines surrounding passage of the "No Child Left Behind Act" of 2001 have centered on the law's testing and accountability provisions, with a focus on the requirement that schools demonstrate "adequate yearly progress" (AYP) with regard to student performance on state assessments and other measures.

But the new law — which governs most federal K-12 programs — also contains a front-end requirement regarding AYP that has received less attention but likely poses a more immediate challenge for many states, districts, and schools. For a school to demonstrate AYP, the law requires that at least 95 percent of students in each school, and in each subgroup within the school, be included in the assessments.

Although officials are still deciding how to enforce the inclusion requirements, states and districts must address the issue quickly to comply with the law and avoid administrative enforcement and litigation.

Building on Past Laws

In large part, this requirement builds on principles of inclusion that are already found in several federal laws, including several laws passed in the 1990s as part of standards-based reform in education.

For example, the Goals 2000: Educate America Act and the Improving America's Schools Act of 1994 both require the inclusion of students with diverse learning needs in testing programs, and the Individuals with Disabilities Education Act Amendments of 1997 require the inclusion of students with disabilities in state- and district-wide testing programs (with appropriate accommodations).

Premised on the belief that students who aren't counted do not count, the drive for inclusion in the 1990s was very much part of the broader standards-based reform movement designed to ensure that high standards are real for all students.

But the "No Child Left Behind Act" goes one important step further. More than broadly recognizing that inclusion of all students is important for any sustained, systemic education reform, and more than establishing general requirements for inclusion of all students in relevant testing programs, the new education law establishes clear, measurable standards against which the inclusion requirement can be assessed and upon which compliance with the law is conditioned.

Progress Required for All

Specifically, "No Child Left Behind" requires as a condition of federal funding that states develop assessments (in English language arts, mathematics, and ultimately science) aligned with state standards, and that all schools demonstrate "adequate yearly progress" in student performance based primarily on those assessments — with the goal that in 12 years all students are achieving at the proficient level (*EAI*, April 2002).

The AYP provisions require that each school demonstrate achievement gains with regard to their students overall and with regard to each major subgroup, including economically disadvantaged students, students from "major racial and ethnic

Reprint from *Education Assessment Insider*, May 2002, 1(2), pp. 1, 11-12, with permission from Aspen Publishers, Inc., Gaithersburg Md., 800/638-8437. Copyright © May 2002.

LEGAL LESSONS is a monthly column that provides education leaders with practical policy information related to testing and the law. This column should not be construed as legal advice, and readers should not act upon information contained in this column without professional counsel.

groups," students with disabilities, and students with limited English proficiency.

Moreover, the law requires that, for a school to demonstrate AYP, *not less than 95 percent of all students and of each major subgroup enrolled in the school be required to take the assessments* (with appropriate accommodations), except where, among other things, "the number of students in a category is insufficient to yield statistically reliable information." Congress left that number undefined, but statisticians generally put it at approximately 30 students.

In addition, the law requires states, districts, and schools to issue report cards that include "the percentage of students not tested," disaggregated by each major subgroup. Finally, it establishes a series of escalating consequences for schools that fail to demonstrate AYP for a number of years, including options for students to transfer to other public schools, options to use Title I funds to pay for tutoring or supplemental services, and even reconstitution of the given school.

It is unclear exactly how the 95 percent inclusion requirements are going to be administered and enforced. But given these provisions, it is important that states focus immediately on issues of inclusion (and related accommodations issues) and provide meaningful guidance to districts, schools, and parents.

This is particularly important with regard to English language learners and students with disabilities, who are often least included in testing programs and for whom accommodations and/or alternate assessments are often required. ■

Art Coleman and Scott Palmer are Counsel at Nixon Peabody LLP and each served as Deputy Assistant Secretary for Civil Rights with the U.S. Education Department during the Clinton Administration. They now focus on providing guidance to states, districts, and other education institutions on how to structure their policies in ways that meet their education goals and comply with federal legal requirements (including the "No Child Left Behind Act"), thereby reducing the risk of litigation or enforcement.

Reprint from *Education Assessment Insider*, May 2002, 1(2), pp. 1, 11-12, with permission from Aspen Publishers, Inc., Gaithersburg Md., 800/638-8437. Copyright © May 2002.

This article was originally printed in Aspen Publishers' newsletter ***Education Assessment Insider***, a new monthly publication focusing on compliance, testing, and accountability.

For more information or to order a subscription, call 800/638-8437 or go to http://www.aspenpublishers.com and click on "Education Administration."

NSBA reprinted with permission from Aspen Publishers, Inc.

Education Assessment
INSIDER Compliance, Testing, and Accountability

June 2002 Vol. 1, No. 3

From the editors of *Education Daily*

Legal Lessons

Arthur L. Coleman and Scott R. Palmer
Nixon Peabody LLP

What Are the Federal Legal Implications of Using One Test for Two Purposes?

A core concern of states and others implementing the "No Child Left Behind Act" is whether the same test can be used for multiple purposes: school accountability and individual student accountability. In implementing the new law, it is essential that states fully understand the crosswalk of federal laws that apply to the use of tests — and that states focus on the potential challenges associated with using the same test for multiple purposes.

Testing for School Accountability

The centerpiece of the "No Child Left Behind Act" is the requirement that each state establish a single accountability system that requires schools and school districts to demonstrate "adequate yearly progress" (AYP) in student performance, based primarily on state assessments (*EAI*, April 2002).

Thus, the new law requires each state to adopt challenging academic content and achievement standards in the areas of language arts, mathematics, and science, and to develop valid assessments aligned with those standards for purposes of school accountability.

Testing for Student Accountability

Many states are also using tests of individual student accountability — that is, "high-stakes" testing. For example, about half the states are using or planning to use high school exit exams as a condition for graduation and one-quarter are using tests to determine grade-to-grade promotion.

By conditioning the award of educational benefits or interests, these high-stakes testing programs implicate a host of separate federal laws, such as the U.S. Constitution's 14th Amendment Due Process Clause, Title VI of the Civil Rights Act of 1964 (which prohibits discrimination based on race, color, or national origin), Section 504 of the Rehabilitation Act of 1973 (which prohibits discrimination based on disability), and more.

Courts applying these laws in the context of high school graduation and grade-to-grade promotion have turned to the science of testing — psychometrics — to conclude, as a general proposition, that the tests must be valid for their particular purposes, and that students must have a meaningful opportunity to learn the material being tested.

The Crosswalk, or Using the Same Test for Multiple Purposes

In broadest terms, the same test can be used for two purposes, as long as it is independently valid for each purpose.

In general, harmony among tests used for school and student accountability is a good thing. After all, if designed and implemented correctly, state standards should be a driving force behind the design and administration of such tests.

Yet, educators should be aware of possible challenges that may arise when states seek to use the same test for purposes of both school and student accountability, specifically with regard to validity and opportunity to learn.

In simple terms, a test that is valid for its intended purpose is one in which the chain of inferences regarding the meaning of test scores are accurate for the given purpose.

Reprint from *Education Assessment Insider*, June 2002, 1(3), pp. 1, 5, with permission from Aspen Publishers, Inc., Gaithersburg Md., 800/638-8437.
Copyright © June 2002.

NSBA Reprinted with permission from Aspen Publishers, Inc.

LEGAL LESSONS is a monthly column that provides education leaders with practical policy information related to testing and the law. This column should not be construed as legal advice, and readers should not act upon information contained in this column without professional counsel.

Reprint from *Education Assessment Insider*, June 2002, 1(3), pp. 1, 5, with permission from Aspen Publishers, Inc., Gaithersburg Md., 800/638-8437. Copyright © June 2002.

In tests used for school accountability, a valid test may be used to tell you that a school in which students repeatedly perform poorly on state assessments is not making "adequate yearly progress," leading to a host of consequences under the "No Child Left Behind Act." In tests used for student accountability, a valid test may be used (often along with other factors) to tell you that low-performing students have not met the level of performance necessary for promotion or graduation, despite being provided a meaningful opportunity to learn.

But where the same tests are used for school and student accountability, it is possible that the same test that indicates that a school is failing would also be used to tell you that an individual student has "failed" to learn, even though students attending schools that are failing may never have had a meaningful opportunity to learn material being tested. Thus, in some circumstances, it is possible that failing scores relating to school accountability may render the test invalid for purposes of determining individual student accountability. In short, there is some question about whether the same test can, in all circumstances, be valid for use in both school and student accountability.

Although federal courts have addressed "opportunity to learn" and "validity" issues implicated in student high-stakes testing programs, there is no reported case precisely on the multiple-use issue in this context. Moreover, it is possible that schools that "need improvement" could perform well enough to validly hold individual students accountable.

At the same time, states and districts should be aware of the crosswalk of federal legal requirements regarding test use, and focus on the interrelationship among testing programs — and the implications of particular test uses — when they establish their accountability systems. ■

Art Coleman and Scott Palmer are counsel at Nixon Peabody LLP and each served as deputy assistant secretary for civil rights with the U.S. Education Department during the Clinton Administration. They now focus on providing guidance on how to structure policies to meet education goals and comply with federal legal requirements.

This article was originally printed in Aspen Publishers' newsletter ***Education Assessment Insider***, a new monthly publication focusing on compliance, testing, and accountability.

For more information or to order a subscription, call 800/638-8437 or go to http://www.aspenpublishers.com and click on "Education Administration."

NSBA Reprinted with permission from Aspen Publishers, Inc.

Education Assessment
INSIDER Compliance, Testing, and Accountability

July 2002 Vol. 1, No. 4

From the editors of *Education Daily*

Legal Lessons

**Arthur L. Coleman
and Scott R. Palmer
Nixon Peabody LLP**

No English-Learner Left Behind:

New Accountability Rules Expand Existing Federal Laws

States, districts, and schools that effectively meet the requirements and goals regarding English language learners in the "No Child Left Behind Act" can go a long way toward fully complying with other relevant federal laws. But for those that fail to do so, the accountability system required in "No Child Left Behind" may produce substantial evidence that they are out of compliance with multiple federal laws.

Longstanding federal laws, including Title VI of the Civil Rights Act of 1964 (Title VI) and the Equal Educational Opportunities Act of 1974 (the EEOA), which prohibit discrimination based on race, ethnicity, and limited English proficiency, together require that public school systems offer effective education programs for English language learners — both with respect to English language instruction and core academic instruction.

The "No Child Left Behind Act" builds on these federal requirements, creating a more concrete, transparent system of accountability for the achievement of English language learners, including with regard to the use of assessments.

Existing Requirements

Title VI and the EEOA have been interpreted generally to require that public school systems provide English language learners with an educational program designed to effectively teach them both English and the substantive knowledge that all students are expected to master.

Federal law does not require any particular type of education program for English language learners (such as bilingual instruction or English immersion), but the instructional program must be based on sound educational theory, supported by adequate resources, and periodically evaluated and revised if necessary to achieve its goals.

At the same time, where states, districts, and schools use assessments as part of the given education program, they generally must ensure that English language learners are included in the assessments; provided appropriate accommodations; and, specifically with regard to many tests used for individual high-stakes purposes, provided sufficient opportunity to learn the material being tested.

Assessing English-Learners

The "No Child Left Behind Act" builds on these requirements in ways that are more concrete, transparent, and expansive.

First, the new education law requires that all states establish standards and assessments in language arts, mathematics, and science, and that schools, districts, and states demonstrate "adequate yearly progress" (AYP) in raising student achievement based primarily on state assessments.

To demonstrate AYP, states, districts, and schools must meet proficiency goals for all students as well as for various subgroups of students, including English language learners. In other words, if the performance of English language learners does not improve, then the given school, district, or state faces escalating consequences, including school improvement, corrective action,

Reprint from *Education Assessment Insider*, July 2002, 1(4), pp. 1, 5, with permission from Aspen Publishers, Inc., Gaithersburg Md., 800/638-8437.
Copyright © June 2002.

NSBA Reprinted with permission from Aspen Publishers, Inc.

LEGAL LESSONS is a monthly column that provides education leaders with practical policy information related to testing and the law. This column should not be construed as legal advice, and readers should not act upon information contained in this column without professional counsel.

Reprint from *Education Assessment Insider*, July 2002, 1(4), pp. 1, 5, with permission from Aspen Publishers, Inc., Gaithersburg Md., 800/638-8437. Copyright © June 2002.

and ultimately restructuring — irrespective of its performance more broadly.

"No Child Left Behind" also requires that 95 percent of English language learners (and 95 percent of all students) be included in the given assessments (*EAI*, April 2002), and that English language learners be provided appropriate accommodations.

In addition, the new law requires, beginning in the 2002–03 school year, that states ensure that every district implement annual assessments measuring the English proficiency of English language learners and demonstrate, among other things, "annual increases in the number or percentage of children making progress in learning English." Districts that fail to do so face escalating consequences, including potential loss of funds.

Thus, the "No Child Left Behind Act" establishes systems of accountability for the achievement of English language learners in terms of both substantive knowledge and English proficiency — the same areas covered by longstanding federal civil rights laws.

Challenges and Opportunities

This creates both challenges and opportunities. For example, failure to achieve AYP with regard to English language learners may provide evidence that could be used to challenge the given state's, district's, or school's English-language-learner programs under Title VI, the EEOA, or other federal laws (especially where tests are being used for individual high-stakes purposes).

By the same token, meeting the accountability goals in "No Child Left Behind" may provide evidence of compliance with these federal laws.

Given this overlap between the new education law and existing federal laws, implementation of the "No Child Left Behind Act" should include a review of existing programs for English language learners to ensure they are effective and aligned with the new requirements for standards and assessments. ■

Art Coleman and Scott Palmer are counsel at Nixon Peabody LLP and each served as deputy assistant secretary for civil rights with the U.S. Education Department during the Clinton Administration. They now focus on providing guidance on how to structure policies to meet education goals and comply with federal legal requirements.

This article was originally printed in Aspen Publishers' newsletter ***Education Assessment Insider***, a new monthly publication focusing on compliance, testing, and accountability.

For more information or to order a subscription, call 800/638-8437 or go to http://www.aspenpublishers.com and click on "Education Administration."

NSBA Reprinted with permission from Aspen Publishers, Inc.

THE SECRETARY OF EDUCATION
WASHINGTON, D.C. 20202

June 14, 2002

Dear Colleague:

As you know, on January 8, 2002, President Bush signed into law the *No Child Left Behind Act of 2001* (NCLBA). I am excited about this landmark legislation, as I believe it provides a critical road map for bringing about real improvement in student achievement.

The NCLBA will substantially affect the 2002-2003 school year, and given our short timeline for implementation, I wanted to provide you with preliminary guidance on public school choice, supplemental education services, and collective bargaining agreements--three key issues that will affect your planning processes for this fall. This guidance is not exhaustive and does not cover every possible nuance of the law. Rather, it is intended to give initial direction to you as you proceed this summer with implementing these programs for the start of the school year, with the understanding that additional guidance and/or draft regulations on these matters, as well as on other matters, will be provided in the near future. Once again, because the law requires implementation of these programs to begin this coming school year, I want to reiterate that your planning processes for this should be underway.

The context for public school choice, supplemental education services, and collective bargaining agreements is the accountability provisions in the Title I program. Under the NCLBA, each state must establish a definition of "adequate yearly progress" to use each year to determine the achievement of each school district and school. School districts must identify for improvement any Title I school that fails to meet the state's definition of adequate yearly progress for two consecutive years. Such schools, with technical assistance from their school districts, must develop and implement improvement plans incorporating various strategies to strengthen instruction in the core academic subjects in the school and addressing the specific issues that caused the school to fail. As discussed below, these schools must also provide public school choice and supplemental education services.

I. Public School Choice

In General. In the case of any Title I elementary or secondary school identified for school improvement, the school district is required to provide all students enrolled in the school with the option to transfer to another public school in the school district--which may include a public charter school--that has not been identified for improvement. This choice requirement applies unless state law specifically prohibits choice.

I recognize that some states and school districts have already begun planning for choice for the 2002-2003 school year. Indeed, ***the new choice requirements must be implemented beginning this fall***. As you continue your planning, I strongly encourage you to provide several choice options for parents. Parents should be provided a reasonable amount of time to consider their

BEST COPY AVAILABLE

options, be given concise but detailed information on the performance and overall quality of the receiving schools, and be provided an opportunity to visit potential schools of choice.

Schools Identified for Improvement Prior to Enactment. The NCLBA includes specific transition provisions governing schools that were identified for improvement under the prior law. With one exception stated under the law, choice must be provided at the beginning of the 2002-2003 school year to all students in schools that have been identified for improvement (based on adequate yearly progress under the pre-NCLBA) as of January 7, 2002. The exception is if a school that is in school improvement on January 7 makes its second year of adequate yearly progress based on its 2002 assessment results, the district is not required to provide choice to the students in that school. ***School districts should begin planning now, if they have not begun already, to make choice available for students in any school that was in school improvement status as of January 7, 2002.***

Capacity. A school district is obligated to provide choice to all eligible students, subject to health and safety code requirements (regarding facility capacity). Transferring students should be treated as students who have moved into the receiving school's attendance zone and allowed to enroll in class and other activities on the same basis as other children in the school.

Priority for Low-Achieving Students in Low-Income Families. Among students exercising choice, school districts must give priority to the lowest-achieving students from low-income families. In other words, these students have priority among school options offered under the NCLBA and priority for transportation if funds for transportation are inadequate for that purpose. However, it would be inappropriate to remove students already accepted at a school to make room for those students exercising choice.

Magnet and Special Focus Schools. School districts need not disregard entrance requirements based on academic or other skills for schools for the gifted and talented, math or science schools, or other similar schools.

Transportation. If a student exercises the option to transfer to another public school, the school district has certain obligations to provide or pay for with federal funds the student's transportation to the new school. The school district's obligation for choice-related transportation and supplemental education services is equal to 20 percent of its Title I, Part A allocation. Within the 20 percent, a district must spend: (1) an amount equal to 5 percent for choice-related transportation; (2) an amount equal to 5 percent for supplemental education services; and (3) an amount equal to 10 percent for transportation or supplemental education services, or both, as the district determines. This obligation may be satisfied through use of regular Title I, Part A funds, school improvement funds under Section 1003, or Title V, Part A funds. Additionally, school districts may use funds transferred to Title I from other federal education programs under Section 6123 to pay such costs. Programs eligible for such transfers include Title II, Part A Improving Teacher Quality State Grants; Title II, Part D Educational Technology State Grants; Title IV, Part A Safe and Drug-Free Schools and Communities State Grants; and Title V, Part A State Grants for Innovative Programs. Nothing in the NCLBA prohibits a district from spending more for transportation. Furthermore, a school district is not prohibited from spending state or local funds, if it wishes, to assist in paying for transportation.

The school district's obligation to provide transportation for the student ends at the end of the school year if the school from which the student transferred is no longer identified by the school district for school improvement, corrective action, or restructuring.

Desegregation. A school district that is subject to a desegregation plan--whether voluntary, court ordered, or under an agreement with a federal or state administrative agency--is not exempt from the public school choice requirements. In determining how to provide students with the option to transfer to another school, the school district may take into account the requirements of the desegregation plan. If a desegregation plan forbids the school district from offering any transfer option, the school district should secure appropriate changes to the plan to permit compliance with the public school choice requirements.

Cooperative Agreements with Other School Districts. There may be very limited circumstances under which public school choice may not be possible, particularly in some sparsely populated areas. For example, school districts with only one school at a particular grade level, or districts in which all schools at a grade level are identified for improvement, will not be able to offer choice. In such cases, districts are encouraged to establish cooperative agreements with other nearby school districts to permit transfers. Furthermore, in the very limited circumstances where choice is not possible and in accordance with the spirit of the NCLBA, I strongly encourage school districts to consider offering supplemental education services or other choices in curriculum or instruction such as distance learning.

II. Supplemental Education Services

In General. In the case of a Title I school in the second year of school improvement, the school district is required to arrange for the provision of supplemental education services for eligible students enrolled in the school. The provider of the services must have a demonstrated record of effectiveness and be selected by parents from a list of providers approved by the state. These supplemental services must be provided beginning in the 2002-2003 school year. Supplemental education services are extra academic assistance for low-income students who are attending Title I schools that have failed to make adequate yearly progress for three or more years. The purpose of these services is to ensure that these students increase their academic achievement, particularly in reading, language arts, and mathematics. These academic services may include assistance such as tutoring, remediation, and academic intervention. Instruction must take place outside the regular school day, such as before or after school, on weekends, or during the summer. Supplemental education services must be of high quality, research based, and specifically designed to increase student academic achievement. Once again, I want to reiterate that the law requires that these opportunities be afforded to children beginning this fall.

Schools Identified for Improvement Prior to Enactment. Title I schools that have been identified for school improvement for two or more consecutive years as of January 7, 2002, ***must*** begin offering supplemental education services at the beginning of the 2002-2003 school year. As noted above, however, if a school in improvement on January 7 makes its second year of adequate yearly progress based on its 2002 assessment results, the district is not required to provide supplemental education services to eligible students in that school.

Parents. Parents choose the supplemental education services provider for their children from among the providers approved by the state for their school district. In general, the school district must work to ensure parents have good, easy-to-understand information about supplemental education services. School districts must provide parents with information on the availability of supplemental education services, the identity of approved service providers, and, at a minimum, a brief description of the services, qualifications, and demonstrated effectiveness of each provider. School districts may provide additional information, as appropriate. Such communications with parents must occur at least annually and must be in an understandable and uniform format. To the extent possible, communications must also be in a language parents can understand.

At the state level, parents should be consulted to promote participation by a greater variety of providers and to develop criteria for identifying high-quality providers. States, however, are ultimately responsible for identifying eligible providers from among which parents may choose.

At the provider level, parents, the school district, and the provider chosen by the parents must develop and identify specific academic achievement goals for the student, measures of student progress, and a timetable for improving achievement.

Eligible Children. Eligible children are those children from low-income families attending Title I schools that have failed to make adequate yearly progress for three consecutive years or more, as described above. In circumstances where more students request services than the school district can fund, the school district must place a priority on serving those low-income students who are the lowest achieving.

Per-Pupil Spending Limit. School districts are limited in how much they can spend to provide services for each child. The limit is what they receive in Title I funding per low-income child or the cost of the services themselves. Specifically, school districts must provide funding for supplemental education services for each participating child in an amount which is the lesser of the following: (1) the school district's Title I, Part A allocation, as determined by the state education agency, divided by the number of children from families below the poverty line (based on Census poverty data, not federal school lunch data) in the school district; or (2) the actual costs of the supplemental education services received by each child.

Identification by States of Supplemental Education Service Providers. State education agencies must develop and apply objective criteria for identifying supplemental education service providers. The state education agency must also consult with parents, teachers, school districts, and interested members of the public to identify a wide array of supplemental education service providers so that parents can have a wide variety of choices. The state education agency must update this state-level list of approved providers on at least an annual basis and must provide a list for school districts of those providers available in their geographic locations.

Criteria developed by the state education agency for identification of providers must include: (1) a demonstrated record of effectiveness in improving student academic achievement; (2) documentation that the instructional strategies used by the provider are high quality, based upon research, and designed to increase student academic achievement; (3) evidence that services are consistent with the instructional program of the school district and with state academic content standards; and (4) evidence that the provider is financially sound.

With respect to the first criterion, each state education agency is responsible for defining what would be acceptable evidence of effectiveness. Acceptable evidence may include significant improvement in student academic achievement, successful use of instructional practices based on sound research or of documented success by other providers, successful and sustained remediation of reading or math difficulties, or use of a program that others have successfully used to improve student academic achievement.

State education agencies may not require supplemental education service providers to hire only certified teachers in order to be eligible providers.

Providers shall not be disqualified on the grounds that their documentation of instructional strategies does not include "scientifically based research" (as such term is defined in the NCLBA).

Supplemental Education Service Providers. A school entity (public or private), an institution of higher education (public or private), or a nonprofit or for-profit organization can all be considered for inclusion on the state-approved list of supplemental education service providers. Faith-based organizations can also be considered for inclusion as state-approved providers. The state must apply all criteria consistently when selecting approved providers.

Distance-Learning Technology. Providers that utilize distance-learning technology do not have to meet different criteria; they are eligible if they meet the criteria established by the state education agency for all providers. The law states that providers must be within the school district or the providers' services must be reasonably available in neighboring education agencies. The provider of distance-learning supplemental education services does not have to be located in the school district to meet this requirement; only the services need to be available. We would encourage the use of distance learning in rural areas and other areas where parents have a limited number of providers available in their district.

Charter Schools. If a charter school, as a part of a school district, receives Title I, Part A funds and meets the eligibility criterion of being identified as a school that fails to make adequate yearly progress for three or more years, the school district must offer supplemental education services, and the school district is responsible for funding such services, just as for the other public schools in the school district.

If the charter school is itself considered a school district under state law and receives Title I, Part A funds, it is responsible for ensuring that eligible students receive supplemental education services from approved providers and must fund such services.

Transportation. School districts may, at their discretion, use funds reserved for supplemental education services to transport students to and from approved providers.

III. Collective Bargaining Agreements

The Department has received many inquiries regarding the impact of the new law on existing collective bargaining unit agreements. The NCLBA provides that nothing in Section 1116 (academic assessment and local education agency and school improvement) shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded school and school district employees under federal, state, or local laws or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employees and their employers. Section 1116 does not operate to invalidate employee protections that exist under current law and collective bargaining and similar labor agreements. However, it does not exempt state education agencies, local education agencies, and schools from compliance with Title I based on prospective collective bargaining or similar agreements or changes in state or local law. State and local education authorities, as well as state legislatures and local governing boards, need to ensure that changes in state and local laws are consistent with Title I requirements and that any changes to collective bargaining agreements or new agreements are also consistent with Title I.

With respect to the selection of supplemental education service providers, there is no requirement in the NCLBA that parents give preference to parties to the collective bargaining agreements. As you know, parents select the supplemental service provider, and parents are not parties to collective bargaining agreements.

Thank you again for your kind attention to these matters. Please let me reiterate that this letter is intended to provide preliminary guidance on public school choice, supplemental education services, and collective bargaining agreements. The Department will provide additional guidance and/or draft regulations on these matters, as well as other matters, in the near future. Please do not delay the planning process. I am hopeful that the new statute, together with this initial guidance, will enable you to promptly move ahead in preparation for the 2002-2003 school year.

Sincerely,

/s/

Rod Paige

·NSBA·

Choice And Supplemental Services
Secretary Paige's June 14, Dear Colleague Letter

A. Scope: Choice And Supplemental Services Provisions Apply To 2002-03 School Year.

1. ***Direction:*** Preliminary guidance for start of this school year.
2. ***Context:*** Schools identified as failing under old law—i.e., in school improvement status as of January 7—and still failing following the Spring 2002 assessment.

B. Choice:

1. Must provide **all** students enrolled in a failing school with the option of transferring to another public school in the district—which may include a public charter school. However, the receiving school cannot be identified as needing improvement.

2. LEAs a) are **strongly encouraged** to provide parents several options and b) must provide parents adequate notice, adequate information about the quality of receiving schools, and an opportunity for a visit. Note: The proposed regulations require that parents be provided more than one option.

3. A school district is obligated to provide choice to all eligible students, subject to health and safety code requirements (regarding facility capacity).

4. Transferring students must be treated on the same basis as any new child who also has moved into the attendance area. But, a student already accepted at a school should not be removed to make room for those students exercising choice.

5. Among transferring students, the lowest achieving students from low-income families get their choice of school first and student transportation will be provided in that order from available school district funds.

6. Choice transportation costs and supplemental services (including transportation) are paid for with up to 20 percent of the school district's Title I, Part A funds with at least five percent reserved for each purpose. These costs can be spent from federal program funds transferred to Title I and augmented by local funds. (Note: If funds required for choice transportation costs are too limited to be offered to a

particular child, a parent can still choose another school, but would have to provide transportation).

7. If a student's school is removed from improvement, corrective action, or restructure status at the end of the school year, the school district is not obligated to fund the cost of transporting that student to his choice school in the following year.

8. A district under a voluntary or court ordered desegregation plan is not exempt, but the district can take into account the requirements of the plan. If the desegregation plan prohibits student transfers, appropriate changes to the plan should be obtained.

9. Where choice options within a school system are not available (e.g., rural schools), arrangements with other school districts are encouraged, as well as supplemental services—including distance learning.

10. Magnet and special focus schools can maintain their special entrance requirements.

C. Supplemental Services:

1. If a school is in the second year of improvement, (i.e., a school that has failed to make AYP for three years or more), it must offer supplemental services.

2. Parents select the supplemental service provider from a state approved list.

3. The focus of the services must be on reading, language arts, and math. The services are provided outside the school day –i.e., after school, weekends or summer. The services must be research-based and designed to increase achievement.

4. Parents must be informed by the school district about their supplemental services options—including a description of the services, as well as the qualifications and effectiveness of the providers. Parents, the provider, and the school district must develop goals, measures of progress and timelines for improvement for the student.

5. If more students apply than can be accommodated, then those low-income students who also are at the lowest level of achievement get first priority.

6. The per pupil amount that can be spent on supplemental service cannot exceed the district's per pupil spending under Title I, Part A.

7. Supplemental service providers can include a public school, a private school, a university, and a non-profit or for-profit entity. The services can include distance learning.

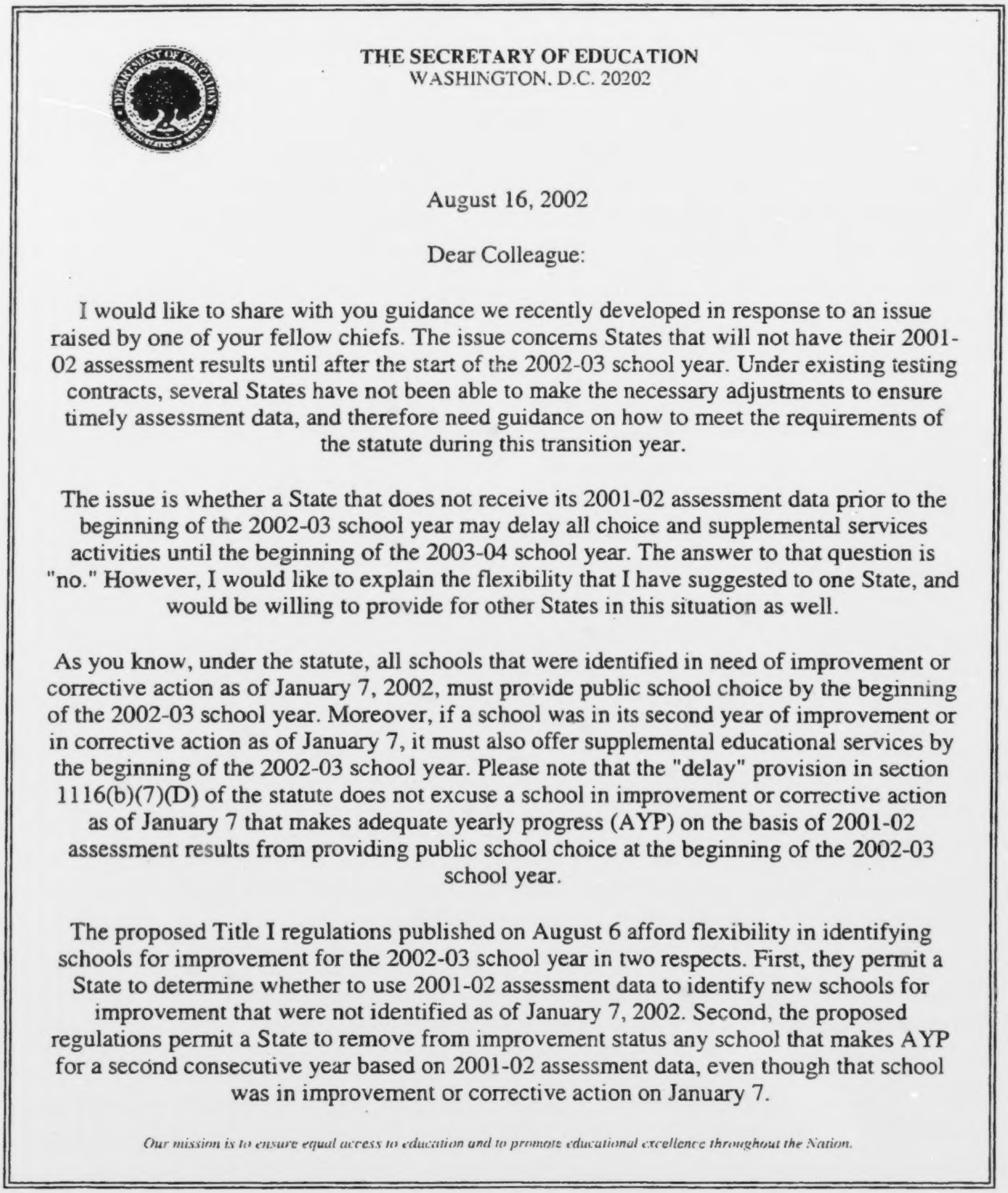
8. If a charter school as part of the LEA, receives Title I, Part A funding and fails to meet AYP for three years, then it too must offer supplemental services.

9. Transportation can be paid for from the twenty percent of Title I, Part A funding reserved for choice and supplemental services.

D. Collective Bargaining.

The federal legislation specifically states that nothing in section 1116 is intended to affect current rights, remedies, and procedures of employees under 1) federal and state law, 2) local laws, or 3) collective bargaining agreements. But prospective bargaining agreements or changes in state or local law in this area must be consistent with Title I.

MAR/ajj



THE SECRETARY OF EDUCATION
WASHINGTON, D.C. 20202

August 16, 2002

Dear Colleague:

I would like to share with you guidance we recently developed in response to an issue raised by one of your fellow chiefs. The issue concerns States that will not have their 2001-02 assessment results until after the start of the 2002-03 school year. Under existing testing contracts, several States have not been able to make the necessary adjustments to ensure timely assessment data, and therefore need guidance on how to meet the requirements of the statute during this transition year.

The issue is whether a State that does not receive its 2001-02 assessment data prior to the beginning of the 2002-03 school year may delay all choice and supplemental services activities until the beginning of the 2003-04 school year. The answer to that question is "no." However, I would like to explain the flexibility that I have suggested to one State, and would be willing to provide for other States in this situation as well.

As you know, under the statute, all schools that were identified in need of improvement or corrective action as of January 7, 2002, must provide public school choice by the beginning of the 2002-03 school year. Moreover, if a school was in its second year of improvement or in corrective action as of January 7, it must also offer supplemental educational services by the beginning of the 2002-03 school year. Please note that the "delay" provision in section 1116(b)(7)(D) of the statute does not excuse a school in improvement or corrective action as of January 7 that makes adequate yearly progress (AYP) on the basis of 2001-02 assessment results from providing public school choice at the beginning of the 2002-03 school year.

The proposed Title I regulations published on August 6 afford flexibility in identifying schools for improvement for the 2002-03 school year in two respects. First, they permit a State to determine whether to use 2001-02 assessment data to identify new schools for improvement that were not identified as of January 7, 2002. Second, the proposed regulations permit a State to remove from improvement status any school that makes AYP for a second consecutive year based on 2001-02 assessment data, even though that school was in improvement or corrective action on January 7.

BEST COPY AVAILABLE

The issue that has been brought to my attention is how to treat those schools in school improvement or corrective action on January 7 that made one year of AYP in 2000-01, but have not yet received their data for the 2001-02 school year to determine if they made AYP for a second consecutive year and thus may exit improvement status. For these schools, we have developed guidance that I believe focuses on what would best serve the needs of the students. Given that school districts need the 2001-02 assessment data to determine whether to use the flexibility in the proposed regulations, States with assessment results that arrive after the beginning of the 2002-03 school year may allow districts to wait until the assessment data have been received to take action. If the assessment results indicate that a school has made AYP for the second consecutive year, the district may take the school out of improvement status and that school would not be required to offer choice or supplemental educational services. However, if the assessment results indicate that a school has not made AYP for the second consecutive year, the school would be required to remain in improvement status and would be required to offer supplemental services immediately and to offer choice as soon as possible, but no later than the beginning of the next term during the 2002-03 school year. However, parent notifications should occur once the data are received and information is known as to the status of the school in need of improvement. In addition, I encourage districts to make every effort to accommodate the needs of parents, once the data are available, as they seek to act in the interests of their children. This approach would provide supplemental educational services immediately to eligible students attending the school still in need of improvement and allow parents the choice of transferring their children to a higher-performing school at the first opportunity the next quarter or next semester, thereby mitigating disruption.

This guidance applies only to this coming school year, as part of the transition to the new requirements under NCLB. I know that States are starting to renegotiate their contracts with assessment scoring companies, and I urge you to require that the results be returned in sufficient time to allow schools to notify parents and begin choice and supplemental educational services on the first day of the 2003-04 school year and each subsequent year. I understand that this has been difficult in the past, and I am willing to work with you to make this possible without your having to pay penalties or premiums for getting the scores back on a timely basis.

I appreciate working with you to address your concerns because I believe that our partnership is critical to our success in implementing *No Child Left Behind*. I look forward to meeting with you on either September 16th or September 30th, whichever best meets your schedule. Thank you for all that you do to improve the quality of education for our children.

Sincerely,

/s/

Rod Paige

·NSBA·

Choice And Supplemental Services: Special Rules When Assessment Results For Schools In Improvement Status Are Delayed

Secretary Paige's August 16, Dear Colleague Letter

A. **Scope**: For Title I schools in improvement status, the Secretary's letter authorizes school districts to temporarily defer implementing choice and supplemental service provisions at the beginning of 2002-03 school year for any such school that 1) has made Adequate Yearly Progress in 2000-01, and 2) has not received its assessment results for 2001-02 to determine if it is to be removed from improvement status.

B. Local Flexibility:

1. A school covered by the scope of the Secretary's letter (see above) will continue to be designated as needing improvement until the 2001-02 school year assessment results are available to show that it no longer is in that status.
2. However, that school may delay offering choice and supplemental services until the state's assessment results are available and its improvement status is determined.
3. If the assessment results keep the school in improvement status, it must move "as soon as possible" to meet its choice obligation, but not later than "the beginning of the next term". If that school is also obligated to provide supplemental services, it must do so "immediately".
4. Appropriate parent notification must occur once the data are received.

C. Broader Implications:

1. In addition to providing some flexibility to Title I schools in improvement status, the delay of the choice provisions may also mean that students who ultimately elect to transfer to another school would not need to be counted in determining whether that school has made Adequate Yearly Progress. The regulations only require transferring students to be counted for AYP purposes if they are enrolled in the school for the full academic year).

2. School districts that are involved in the delay may need to reserve funds for mid-course budget adjustments to ensure that they can fund their

choice/supplemental service requirements—in the event any of their Title I schools retain their status as needing improvement.

MAR/ajj

THE SECRETARY OF EDUCATION
WASHINGTON, D.C. 20202

July 24, 2002

Dear Colleague:

I would like to thank you for the work you are doing to improve the achievement of all students. The *No Child Left Behind Act* (NCLBA) significantly raises expectations for States, local educational agencies and schools in that all students are expected to meet or exceed State standards in reading and in math within 12 years. It also provides a significant increase in resources to assist States in meeting these new expectations. This bipartisan Act is intended to build upon and enhance accountability systems that States have been developing since, or prior to, the 1994 reauthorization of the Elementary and Secondary Education Act (ESEA). I would like to applaud the efforts States have made to develop and implement high quality accountability systems based on challenging standards and assessments and high expectations for students. Working together, we can ensure that all students succeed and that the achievement gap is closed, once and for all.

Accountability is central to the success of the *No Child Left Behind Act*: States need to set high standards for improving academic achievement in order to improve the quality of education for all students. Under the NCLBA, each State establishes a definition of "adequate yearly progress" (AYP) to use each year to determine the achievement of each school district and school. The new definition of AYP is diagnostic in nature, and intended to highlight where schools need improvement and should focus their resources. The statute gives States and local educational agencies significant flexibility in how they direct resources and tailor interventions to the needs of individual schools identified for improvement. Under the NCLBA, schools are held accountable for the achievement of all students, not just average student performance. Ensuring that schools are held accountable for all students' meeting State standards represents the core of the bipartisan Act's goal of ensuring that no child is left behind.

The purpose of the statute, for both assessments and accountability, is to build on high quality accountability systems that States already have in place, not to require every State to start from scratch. Therefore, I want to assure you that the Department will work with States so that they have the tools they need to implement definitions of AYP that meet the requirements of the statute and maintain high standards.

States are to identify for improvement any Title I school that does not meet the State's definition of adequate yearly progress for two consecutive years. However, it is important to underscore the flexibility granted by the statute to State and local educational agencies to direct resources and tailor interventions to the needs of individual schools. For example, the statute gives States and LEAs flexibility in how they can direct Title I school improvement funds to schools that need the most improvement. It also provides a list of consequences under "school improvement," "corrective action" and "restructuring" that allow States to take a range of actions. For example, under "corrective action" the options range from more limited consequences such as hiring an outside expert to advise a school on how to make adequate yearly progress, to more significant

BEST COPY AVAILABLE

measures such as replacing school staff or restructuring the internal organization of a school (see ***attached chart***).

States are free to build on the statutory requirements and to develop differentiated responses based on the degree to which a school has not made AYP. The law does not prescribe how States must officially designate schools that do not meet AYP requirements.

For example, a State could develop categories based on the number of subgroups that make AYP:

1. All groups of students meet AYP goals.
2. All but one or two subgroups meet AYP goals.
3. All but one or two subgroups, and the school as a whole, do not meet AYP goals.
4. No group of students meets AYP goals.

AYP should be used to target the unique needs of schools to improve student achievement. It does not necessitate a "one size fits all" response without regard to how well a school is doing overall. However, any Title I school in which any group of students fails to meet the AYP goal must be identified as in need of improvement, and all such schools that are identified are subject to the timeline for improvement required under Section 1116. Regardless of the degree to which a school is not making AYP, an LEA must take actions to address the needs of the school and improve achievement, provide public school choice for all students in any school that is identified for improvement, and provide supplemental education services for eligible students in schools that continue to not make AYP, as required under Section 1116.

It should be noted that the statute permits schools that do not meet a statewide proficiency goal to also make AYP if, in the subgroup that does not meet this bar, there was at least a ten percent reduction from the previous year in the percentage of students who are not proficient and that subgroup made progress on the other state-designated academic indicator. For example, if the percentage of disadvantaged students not proficient in reading decreases from 70 percent to 63 percent the following year, that group has made sufficient progress.

The Department will issue proposed regulations that address in detail the requirements for State accountability systems. The purpose of this letter is to clarify the process for reviewing and approving State definitions of AYP and to provide you with additional guidance by highlighting criteria that will be used in this process.

GUIDANCE ON AYP CRITERIA AND THE PEER REVIEW PROCESS

States will be required to submit their definitions of AYP for review at the beginning of 2003, although those States applying for State Flex [1] will have to submit definitions for approval this fall. In order to ensure that States can move expeditiously to implement their new definitions of AYP, States can submit the plans for review this fall even if they are not applying for State Flex. The Department will provide additional AYP guidance and more details about the requirements of the review process. All definitions will be peer reviewed, as required by the statute, by a panel that includes representatives of parents, teachers, State educational agencies and local educational agencies. Peer review panelists will make recommendations as to how well each proposed definition meets the requirements of the statute. Approaches to meeting the statutory requirements that are at least as rigorous as the requirements of the statute and the regulations will be considered, provided that a State demonstrates that its system meets the following criteria:

---

[1] The NCLBA enacted significant new flexibility options for State and local school districts. The State Flexibility Demonstration Program allows States to receive additional flexibility in exchange for increased accountability for achievement. For more information about the flexibility options in the NCLBA, please go to our web site at http://www.ed.gov/flexibility/.

1. **A single statewide accountability system applied to *all* public schools and LEAs.** [2]
    - "All schools and LEAs" includes Title I and non-Title I schools and LEAs.
    - Student assessments are administered and the accountability system is applied in the same manner for all schools, regardless of receipt of Title I funds. [3]
2. ***All* public school students are included in the State accountability system.** [4]
    - A student attending the same school for a "full academic year" must be included when determining if a school has made AYP.
    - A student that attends more than one school in a district during the school year is only included in determining if a district has made AYP.
    - All student results are included in the school level report card.
3. **A State's definition of AYP is based on expectations for growth in student achievement that is continuous and substantial, such that all students are proficient in reading and math no later than 2013-2014.** [5]
    - Accountability systems must establish proficiency goals statewide, based on assessment data from the 2001-02 school year, that progressively increase to reflect 100 percent proficiency for all students by 2013-14.
    - These goals must increase at steady and consistent increments during the 12-year timeline, although not necessarily annually throughout the 12 years (i.e., States cannot establish goals that will require the most substantial progress toward the end of the 12-year timeline).
    - Increases in proficiency rates must occur for a school to make AYP. Progress in student achievement from the "below basic" to the "basic level" is not in and of itself sufficient to meet AYP requirements. However, States and LEAs are strongly encouraged to develop systems to recognize very low-performing schools that are making such improvement.

---

[2] Sections 1111(b)(2)(A) and 1111(b)(2)(C)(i).

[3] Requirements for school improvement, corrective action and restructuring under Section 1116 only apply to schools receiving Title I funds.

[4] Sections 1111(b)(2)(A), 1111(b)(3)(C)(xi), 1111(b)(3)(C)(xi), and 1111(b)(3)(C)(xiii).

[5] Sections 1111(b)(2)(C)(iii), 1111(b)(2)(F), and 1111(b)(2)(H).

4. **A State makes annual decisions about the achievement of all public schools and LEAs.** [6]
    - States may calculate AYP for a school using up to three consecutive years of data.
    - If a State chooses to average data over two or three years, it must still determine whether a school or district made AYP on an annual basis.
5. **All public schools and LEAs are held accountable for the achievement of individual subgroups.** [7]
    - Accountability decisions must be based on the achievement of each subgroup in the law, as well as overall achievement.
    - States must set separate, measurable annual objectives for each of these subgroups that ensure they meet the deadline to reach proficiency within 12 years.
    - Subgroups for accountability are major ethnic/racial groups, economically disadvantaged students, limited English proficient (LEP) students, and students with disabilities. The goals for each subgroup may be the same as long as each subgroup reaches 100 percent proficiency in 12 years.
6. **A State's definition of AYP is based primarily on the State's academic assessments.** [8]
    - Decisions about school and LEA progress must be primarily determined by achievement on academic assessments.
7. **A State's definition of AYP includes graduation rates for high schools and an additional indicator selected by the State for middle and elementary schools (such as attendance rates).** [9]
    - Other academic indicators may be included in addition to these required indicators.
    - These indicators may only have the effect of indicating a school did not make AYP. In other words, a State may use these indicators to identify a school for improvement, but they may not be used to prevent a school from being identified for improvement.
8. **AYP is based on separate reading/language arts and math achievement objectives.** [10]
    - Each subgroup of students enrolled in schools and LEAs must meet annual objectives in reading and math for the school or LEA to make AYP.
9. **A State's accountability system is statistically valid and reliable.** [11]
    - In determining AYP, a State is not required to use disaggregated data when the number of students in a subgroup is (a) too small to yield statistically reliable information or (b) the results would reveal personally identifiable information.
    - Each State determines a minimum size of a group, below which the results would not be statistically reliable for use in determining AYP. States make a reasonable

---

[6] Section 1111(b)(2)(J).

[7] Sections 1111(b)(2)(C)(v), 1111(b)(2)(C)(v), and 1111(b)(2)(C)(v)(II).

[8] Section 1111(b)(2)(C)(iv).

[9] Section 1111(b)(2)(c)(vi).

[10] Section 1111(b)(2)(G)(i)

[11] Section 1111(b)(2)(C)(ii)

determination of that number based on the technical specifications of their assessments.

10. **In order for a school to make AYP, a State ensures that it assessed at least 95% of students in each subgroup enrolled.** [12]
    - Schools must report all student results by subgroup. The number of students in a subgroup must be of sufficient size to produce statistically reliable results for the 95% requirement to affect AYP. In other words, if the number of students in a subgroup is too small to produce statistically reliable results, the State need not, on the basis of the 95% requirement, identify the school as not making AYP, even if fewer than 95% of the students in that subgroup take the State's assessment.

In general, the NCLBA sets the ***minimum*** requirements for statewide accountability systems. States should use these requirements to enhance their current systems. This letter is intended to amplify our proposed regulations and provide States with information necessary to be successful in the upcoming State accountability system peer review process. I encourage you to review and comment on our proposed regulations. Please know that my staff and I are available to work with you as we move forward. I look forward to our collaboration on implementing this most fundamental aspect of the NCLBA.

Sincerely,

/s/

Rod Paige

Enclosure

---

[12] Section 1111(b)(2)(I)(ii).

SCHOOL IMPROVEMENT OPTIONS

	A school is identified for school improvement after it has not made AYP for two consecutive school years. A school moves to the next "step" or "year" in this chart if it continues to not make AYP.
School Improvement (Year One)	In general, schools identified for improvement must receive technical assistance that enables them to specifically address the academic achievement problem that caused the school to be identified for improvement. The LEA is required to provide technical assistance as the school develops and implements the plan, including specific assistance in analyzing assessment data, improving professional development, and improving resource allocation. In addition, the following must take place: 1. All students are offered public school choice. 2. Each school identified for improvement must develop or revise a two-year school improvement plan, in consultation with parents, school staff, the local educational agency, and other experts, for approval by the LEA. The plan must incorporate research-based strategies, a 10 percent set-aside of Title I funds for professional development, extended learning time as appropriate (including school day or year), strategies to promote effective parental involvement and mentoring for new teachers.
School Improvement, (Year Two)	1. Make available supplemental educational services to students from low-income families. *In addition, the LEA continues to offer technical assistance to implement the new plan, and offer public school choice.*
Corrective Action (Year Three)	Corrective Action requires an LEA to take actions likely to bring about meaningful change at the school. To accomplish this goal, LEAs are required to take at least one of the following corrective actions, depending on the needs of the individual school: 1. Replace school staff responsible for the continued failure to make AYP; 2. Implement a new curriculum based on scientifically based research (including professional development); 3. Significantly decrease management authority at the school level;

	4. Extend the school day or school year; 5. Appoint an outside expert to advise the school on its progress toward making AYP in accordance with its school plan; OR 6. Reorganize the school internally. *In addition, the LEA continues to offer technical assistance, public school choice and supplemental educational services.*

Page 7

Restructuring (Year Four)	During the first year of restructuring, the LEA is required to prepare a plan and make necessary arrangements to carry out one of the following options: 1. Reopen school as charter school. 2. Replace principal and staff. 3. Contract for private management company of demonstrated effectiveness. 4. State takeover. 5. Any other major restructuring of school governance. *In addition, the LEA continues to offer public school choice and supplemental educational services.*
Implementation of Restructuring (Year Five)	Implement alternative governance plan no later than first day of school year following year four described above.

-###-

·NSBA·

Adequate Yearly Progress
Secretary Paige's July 24 Dear Colleague Letter

A. Scope: Emphasis on state flexibility for key AYP elements

1. ***Defining AYP:*** States define AYP.
2. ***Determining Intervention:*** States and local school districts have flexibility in determining which of the interventions contained in the law to use for individual Title I schools that fail to meet AYP requirements—including how to use Title I improvement funds. For example, corrective action can range from hiring a consultant to replacing school staff.
3. ***Statistical Reliability:*** States determine, based on technical aspects of their assessment, the minimum number of students needed to determine whether the AYP results of a subgroup are statistically reliable.
4. ***Transferring Students:*** If student is enrolled in school for less than *full* academic year, the school does not need to include the student in its AYP determination.

B. States Define AYP

1. State establishes the AYP definition it will use each year for school districts and schools.

2. State may build on high quality accountability systems that it already has in place. (Does not need to start from scratch).

3. State determines how to designate schools that do not meet AYP requirements. For example, a school can be designated as needing improvement on the basis of identifying one or two subgroups that do not meet AYP goals in order to clarify that the school's failure was not based on the failure of many groups or the school as a whole.

4. State must submit its definition of AYP at the beginning of calendar 2003—except if it is seeking to participate in the State Flex program. In that case it must submit this fall.
    - a) Definitions will be reviewed by the U.S. Department of Education through a practitioner's peer review.
    - b) Definitions must meet requirements and rigor of federal statute.

C. In defining AYP, approaches initiated by a state that are at least as rigorous as the federal law will be considered, provided they meet ten criteria—including the following:

1. Statewide accountability applies to all public schools and LEAs.

2. Assessments and accountability are applied in the same manner for all schools—regardless of receipt of Title I funds. (Note: Non-Title I schools are held accountable for AYP via report cards; but only Title I schools are subject to federal corrective action provisions.)

3. All public school students must be included in the state assessment. Although all students (i.e., at least 95%) are included in the assessment, some students may not be included in determining an individual school's AYP. (see E below).

4. All public schools and LEAs are accountable for the achievement of individual subgroups as well as overall achievement. In so doing, states set separate, measurable annual objectives for each subgroup that ensures each reaches 100% proficiency in 12 years. The goals may wind up being the same for each subgroup as long as each reaches 100% in 12 years.

5. The state's accountability system must be statistically reliable and valid (see D.1 below).

D. State AYP flexibility may limit number of failing schools.

Under the operation of Secretary Paige's July 24 "Dear Colleague" letter, earlier concerns over the number of schools that would be identified as failing to meet AYP may be mitigated because:

1. The number that a state selects to determine whether a subgroup is large enough to be statistically reliable may exclude from accountability small subgroups that otherwise could be the basis for identifying school failure. (This may be most relevant in small schools or larger schools with relatively small numbers of at-risk students.)

2. How states define AYP in general will influence the number of schools identified as needing improvement.

Note: Various other provisions not covered in the Secretary's "Dear Colleague" letter also give states flexibility to mitigate the number of schools that could be identified as not meeting AYP. For example, states can decide to average assessment results over two or three years, average assessment results for a given year across several grades within a subject area, and determine which state indicators (in addition to academic assessments), to use to identify additional schools as needing improvement.

E. The exclusion of in-year student transfers in determining a school's AYP

1. For accountability purposes, the July 5 regulations provide that, if a student does not attend a school for the full academic year, that student does not need to be included in the school's AYP determination. Hence, in urban areas where significant percentages of students enrolled in the lowest achieving schools frequently transfer within a school year, the receiving schools would not include those students for determining AYP accountability.

2. Likewise, it would appear that if a student with low academic achievement elects the choice option to transfer from a failing school to another school, the receiving school would not include that child for accountability purposes if the transfer were implemented one day after school started. (Also see Secretary's Paige's August 16 "Dear Colleague" permitting some schools in states experiencing delayed assessment results to delay choice beyond the first day of school).

3. However, in either of these cases, if the student transfers within the district, then the district must include the child in its AYP determination as well as its report card. Hence, it is possible that while all schools may meet AYP in their next Spring assessment, the district as a whole will not.

R/ajj

·NSBA·

NCLB General Policies

1. School safety. Statewide policies permitting students to transfer from persistently dangerous schools or as victim of criminal act. State defines "persistently dangerous" and "criminal acts."

2. Home school. Not required to take tests under the act.

3. Student Privacy. Local polices regarding parental right of 1) inspection of third party surveys, 2) privacy for surveys involving sensitive or personal information, 3) inspection of instructional materials (except tests), 4) consent to physical exams or screenings, 5) consent to personal information for marketing or selling and any instrument to collect personal information. Notice must be provided at beginning of year—including expected dates of surveys and information collection.

4. Constitutionally Protected School Prayer. A local school district must certify that it doesn't prohibit constitutionally protected school prayer—feds provide guidance by Internet by September 1, 2002.

5. Boy Scouts. If a school allows youth or community groups to meet in its facilities before or after school then it must allow the Boy Scouts (limited open forum).

6. Sex Education. Bans use of ESEA funds for condom distribution or other contraceptives. Bans use of federal funds for distributing obscene material on school grounds, course materials that promote sexual activities, and sex education (including HIV prevention) unless age appropriate and emphasizes abstinence.

7. Military Recruiters. School districts must give recruiter names, addresses and phone numbers about high school students. But parents can request that their consent be obtained first. Recruiters must be given the same access as colleges and employers. Requirements issued May 8.

8. Liability Protection. Individual liability will not attach if 1) acting in scope of authority 2) licensed to do the activity involved 3) the act was not criminal or one of flagrant indifference to safety 4) the harm was not caused by a vehicle requiring an operator's license. April 8—actions filed. Unless state clear and specific.

9. Homeless Students. Cannot refuse to enroll a homeless student in their home school or deny comparable services, assign to a special school, or stigmatize. The district must identify a responsible staff person.

10. Smoking Ban. On indoor facilities owned or leased by school. Fines of up to $1,000 per day.

·NSBA·

NCLB—Key Local Requirements for the 2002-2003 School Year

Schoolboard members should be aware of specific requirements for this academic year and consider the action they may have to take.

1. Report cards must be issued. School systems must have data systems in place and determine how local report cards will be presented to the public.
2. New teachers supported by the Title I program must be highly qualified. Consider the impact on collective bargaining, recruitment, salaries, and incentives.
3. All new paraprofessionals supported by the Title I program must be highly qualified. Consider the impact on salaries, professional development, and politics of parents losing jobs (for existing paraprofessionals who lack a high school diploma or equivalent).
4. School districts must do at least one assessment each in the elementary, middle, and secondary grade spans for English and math (as determined by the state).
5. Using the results of 2002-2003 assessments, school districts must identify failing schools. What do school board members need to know about assessment, AYP, informing the public, etc.?
6. School districts must design corrective action programs for schools identified as needing improvement. Consider what school boards need to know about programs designed to improve weak schools.
7. Choice programs and, in some cases, supplemental services must be provided this September for students whose schools were identified as failing under the old law.
8. Limited English proficient students will need to be assessed in their English language capability.
9. School districts will have to pay for most of these actitivies while trying to commit resources to failing schools—and preventing other schools from being so identified. Consider budget implications and reallocations.
10. School boards will need to conform their local policies to meet these requirements.
11. School boards will need to determine the amount of federal funding for this year (allocation changes) and how best to get federal money under new grant design.
12. The state level has substantial discretion in phasing in NCLB, as well as in determining assessments, defining Adequate Yearly Progress, identifying interventions, designing report cards, designing standards, etc. Consider what local information the state needs to have in making decisions and the channels of local communication/involvement that are needed at the state level as the process moves forward.

MAR/dt

THE
NO CHILD
LEFT BEHIND
ACT

Schools Legal Service
Orange County Department of Education August, 2002

Copyright © 2002 by
ORANGE COUNTY SUPERINTENDENT OF SCHOOLS

ALL RIGHTS RESERVED

Printed in the United States of America

Inquiries regarding permission for use of material contained in this publication should be addressed to:

Ronald D. Wenkart
General Counsel
Orange County Dept. of Education
200 Kalmus Drive
Costa Mesa, California 92628
(714) 966-4220

EXECUTIVE SUMMARY

On January 8, 2002, President George W. Bush signed the No Child Left Behind Act (NCLB) of 2001, which amended the Elementary and Secondary Education Act (ESEA), Public Law 107-110, 20 U.S.C. Section 6301 et seq.

The No Child Left Behind Act of 2001 (the Act) represents a significant expansion of the role of the federal government in public education. It is perhaps the most significant change in the role of the federal government with respect to education since the original enactment of the Elementary and Secondary Education Act in 1965.

While the impact of the Act will take several years to be felt, it can be expected that the federal government will no longer be just a funding mechanism for public education but will now be involved in setting the goals for public education. Through the funding of the Title I programs for disadvantaged students, the federal government will require public schools to set achievement level standards and proficiency levels to bring disadvantaged children to the same level as all children.

STATE ACCOUNTABILITY SYSTEM

Section 1111 of the Act requires each state to develop a state accountability system by developing a state plan that addresses academic standards, academic assessments and accountability. The state accountability system must be based on the academic standards and academic assessments developed by the state. The state accountability system must be the same system for all students and must include sanctions and rewards to hold local educational agencies accountable for student achievement and for ensuring adequate yearly progress. What constitutes adequate yearly progress is defined by the state. However, the same high standards of academic achievement must apply to all public school students in the state.

Each state is required to use data from the 2001-02 school year to establish a starting point for measuring the percentage of students meeting or exceeding the state's proficiency level of academic achievement on the state assessments. The timeline is required to ensure that not later than twelve years after the end of the 2001-02 school year (i.e., June 30, 2014), all students in all identified groups (e.g. economically disadvantaged, limited English proficient, minority) will meet or exceed the state's proficient level of academic achievement on the state assessments.

ANNUAL STATE REPORT CARD

As part of the state accountability system, Section 1111(h) of the Act requires each state, beginning with the 2002-2003 school year, to develop an annual state report card. The state report card is required to be concise and presented in an understandable and uniform format, and to the extent practicable, provided in a language that parents can understand.

ANNUAL LOCAL REPORT CARD

Section 1111(h)(2) requires each local educational agency to develop an annual local report card beginning with the 2002-03 school year. The annual local report card must include the following:

1. The number and percentage of schools identified for school improvement and how long the schools have been so identified.
2. Information that shows how students served by the local educational agency achieved on the statewide academic assessment compared to students in the state as a whole.
3. For each school, whether the school has been identified for school improvement.
4. For each school, information that shows how the school's students' achievement on the statewide academic assessments and other indicators of adequate yearly progress compared to students in local educational agencies in the state as a whole.

TEACHER QUALIFICATIONS

Section 1111(h)(6) of the Act requires the local educational agency to notify parents of each student attending any school receiving Title I funds that the parent may request information regarding the professional qualifications of the student's classroom teacher, including, at a minimum, the following:

1. Whether the teacher has met state qualifications and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.
2. Whether the teacher is teaching under emergency or other provisional status, through which state qualification or licensing criteria have been waived.
3. The baccalaureate degree major of the teacher and any other graduate certification or degree held by the teacher, and the field of discipline of the certification or degree.
4. Whether the child is provided services by paraprofessionals, and, if so, their qualifications.

LIMITED ENGLISH PROFICIENT CHILDREN

Section 1112(g) requires each local educational agency receiving Title I funds to provide a language instruction educational program to inform parents of limited English proficient children, identified for participation in the program, not later than thirty days after the beginning of school, of:

1. The reason for the identification of their child as limited English proficient.
2. The child's level of English proficiency.
3. The method of instruction used in the program of which the child is or will be participating.
4. How the program will meet the child's needs.
5. How the program will specifically help their child learn English.
6. The specific exit requirements for the program.
7. In the case of a child with a disability, how the program meets the goals and objectives of the child's IEP.
8. Information pertaining to parental rights.

In addition, the local educational agency is required to separately inform parents of children in language instruction programs if the school fails to make adequate yearly progress.

LOCAL PARENTAL INVOLVEMENT REQUIREMENTS

Section 1118 of the Act requires a local educational agency that receives Title I funds to implement programs, activities and procedures for the involvement of parents. The programs, activities and procedures must be planned and implemented following consultation with the parents of the participating children. The local educational agency is required to develop a policy or plan for establishing parent participation programs. As part of the plan, each local educational agency is required to convene an annual meeting, to which all parents are invited, and conduct additional meetings at times convenient to parents. Section 1118(d) requires that a component of the parental involvement policy include a school-parent compact, by which the school and parents will build a develop a partnership to help achieve the state's high academic standards. The compact is required to describe the school's responsibility to provide high quality curriculum and instruction, and address the importance of communication between parents and teachers. The compact may provide necessary literacy training for parents with Title I funds and may pay reasonable and necessary expenses, including transportation and child care costs, to enable parents to participate in school-related meetings and training sessions.

SCHOOL SUPPORT AND RECOGNITION

Section 1117 of the Act requires each state to establish a statewide system of intensive and sustained support and improvement for local educational agencies and schools receiving Title I funds. The state is required to provide support and assistance to local educational agencies and schools identified in need of improvement through the use of school support teams.

Section 1117(b) requires each state to establish a system for state recognition, including academic achievement award programs, distinguished schools and awards to teachers. The purpose of these programs would be to recognize schools that meet or exceed their adequate yearly progress for two or more consecutive years and to financially reward these schools.

SCHOOL IMPROVEMENT

Section 1116 of the Act outlines the provisions for school improvement. Section 1116 requires each local educational agency receiving Title I funds to use the state academic assessments and other indicators described in the state plan to annually review the progress of each school served under Title I, to determine whether the school is making adequate yearly progress. The local educational agency is required to publicize and disseminate the results of the local annual review.

Section 1116(b) requires the local educational agency to identify for school improvement any school served under Title I that fails, for two consecutive years, to make adequate yearly progress as defined in the state's plan. The local educational agency is required to identify failing schools before the beginning of the school year following the failure to make adequate yearly progress. In the case of schools identified for school improvement, the local educational agency must provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency that has not been identified for school improvement, subject to space availability.

Section 1116(b)(3) requires the local educational agency to develop a school plan for each failing school. The plan must be developed in consultation with parents, staff and outside experts, for approval by the local educational agency. The school is required to implement the school plan not later than the beginning of the next full school year following its identification as a failing school. The local educational agency is required to establish a peer review process to assist with the review of the school plan and work with the school as necessary to meet the requirements of the act.

Section 1116(b)(4) requires the local educational agency serving a school identified for school improvement to provide technical assistance as the school develops and implements the school plan. The technical assistance is required to be based on scientifically based research.

Section 1116(b)(5) requires a local educational agency serving a school that fails to make adequate yearly progress by the end of the first school year, after identification as a failing school, to:

1. Continue to provide all students enrolled in the school with an option to transfer to another public school served by the local educational agency.
2. Make supplemental educational services available.
3. Continue to provide technical assistance.

Section 1116(b)(6) requires the local educational agency to promptly notify parents of each student enrolled in a school identified for school improvement, corrective action or restructuring.

Section 1116(b)(7) states that any school that fails to make adequate yearly progress, as defined by the state, by the end of the second full school year after identification as a failing school, is required to:

1. Continue to provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency.
2. Continue to provide technical assistance while instituting corrective action.
3. Continue to make supplemental educational services available to children who remain in the school.
4. Identify the school for corrective action and, either replace the school staff, institute and fully implement a new curriculum, significantly decrease management authority at the school level, appoint an outside expert to advise the school, extend the school year or school day, or restructure the internal organizational structure of the school. The local educational agency is required to publish and disseminate information regarding any corrective action taken by the local educational agency.

Section 1116(b)(8) states that if, after one full school year of corrective action, the school continues to fail to make adequate yearly progress, then the local educational agency is required to continue to provide all students enrolled in the school with an option to transfer to another public school served by the local educational agency, and to make supplemental educational services available to children who remain in the school. The local educational agency is also required to prepare a plan to carry out an alternative governance plan not later than the beginning of the school year following the year in which the local educational agency implements corrective action and the school continues to fail to make adequate yearly progress. The alternative government's governance arrangements may consist of reopening the school as a public charter school, replacing all or most of the school staff, entering into a contract with a private management company, turning the operation of the school over to the state educational agency, or any other major restructuring of the school's governance arrangements that makes fundamental reforms to improve student academic achievement in the school.

Section 1116(b)(9) requires a local educational agency to provide and pay for the provision of transportation for students in schools that fail to make adequate yearly progress to the public school the students transfers to and attends. If all of the public schools served by the local educational agency to which a child may transfer are identified for school improvement, corrective action or restructuring, the agency shall establish a cooperative agreement with other local educational agencies in the area for a transfer.

Section 1116(b)(14) requires state educational agencies to provide technical assistance to schools identified for school improvement, corrective action or restructuring. If the state educational agency determines that a local educational agency failed to carry out its responsibilities to take such corrective actions as the state educational agency determines to be appropriate, the states shall take such corrective action as the state educational agency determines to be appropriate and in compliance with state law.

Section 1116(c) requires the state to annually review the progress of each local educational agency receiving Title I funds to determine whether schools receiving Title I funds are making adequate yearly progress toward meeting the state's student academic achievement standards, and determine if each local educational agency is carrying out its responsibilities under the act. The state is also required to publicize and disseminate the results of the state review. The state is required to identify for improvement any local educational agency that, for two consecutive years, failed to make adequate yearly progress as defined in the state's plan. It is unclear whether it requires only one identified school, or more than one identified school, for a local educational agency to be designated as failing to make adequate yearly progress. This issue will probably be addressed in the state's plan.

Section 1116(c)(10) outlines the requirements for corrective action by the state educational agency. After providing technical assistance, the state may take corrective action at any time. These actions may include:

1. Deferring programmatic funds or reducing administrative funds
2. Instituting and fully implementing a new curriculum.
3. Replacing the local educational personnel.
4. Removing particular schools from the jurisdiction of the local educational agency and establishing alternative arrangements for public governance and supervision of such schools.
5. Appointing a receiver or trustee, in place of the superintendent and school board.
6. Abolishing or restructuring the local educational agency.
7. Authorizing students to transfer to another school district.

RIGHTS OF SCHOOL EMPLOYEES

Section 1116(d) states that nothing in Section 1116 shall be construed to alter or otherwise affect the rights, remedies and procedures afforded school or school district employees under federal, state or local laws (including applicable regulations or court orders), or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employees and their employers.

This provision in the Act will make it difficult for school districts to implement the corrective actions and restructuring summarized above. Most states, including California, have extensive legislation protecting the rights of school employees, and have laws establishing collective bargaining. Under many collective bargaining agreements, the ability of the school employer to transfer or discipline employees because a school has failed to make adequate yearly progress is severely limited. The conflict between the provisions of the Act summarized above and the state laws protecting the rights of employees will be the subject of much litigation.

SUPPLEMENTAL EDUCATIONAL SERVICES

Section 1116(e) states that in the case of any school identified as failing to make adequate yearly progress, in need of corrective action or restructuring, the local educational agency serving the school shall arrange for the provision of supplemental services to eligible children in the school from a provider with a demonstrated record of effectiveness, that is selected by the parents and approved by the state educational agency, in accordance with reasonable criteria, that the state educational agency has adopted. The local educational agency is required to provide annual notice to parents of the availability of supplemental educational services. Supplemental educational services are defined as tutoring and other supplemental academic enrichment services that are provided in addition to the instruction provided during the school day and are of high quality, research based and specifically designed to increase the academic achievement of the eligible children on the academic assessments required by the Act.

HIGHLY QUALIFIED TEACHERS

Section 9101(23) of the Act defines the term "highly qualified". Highly qualified with respect to a public elementary school or secondary school teacher means the following:

1. The teacher has obtained full state certification as a teacher or passed the state teacher licensing examination and holds a license to teach in such state; and
2. The teacher has not had certification or licensure requirements waived on an emergency, temporary, or provisional basis.

The term "highly qualified", when used with respect to a teacher who is new to the profession (which is undefined) means that the teacher holds at least a bachelor's degree and has passed a rigorous state test.

PARAPROFESSIONALS

Section 1119(c) of the Act requires each school district receiving Title I funds to ensure that all paraprofessionals hired after January 8, 2002, and working in a program supported with Title I funds, have:

1. Completed at least two years of study at an institution of higher education,
2. Obtained an associates or higher degree, or

3. Met a rigorous standard of quality and can demonstrate, through a formal state or local assessment, knowledge of, and the ability to assist in instructing reading, writing, and mathematics, or knowledge of, and the ability to assist in instructing reading readiness, writing readiness, and mathematics readiness as appropriate.

Section 1119(d) requires existing paraprofessionals to meet these requirements by January 8, 2006. Section 1119(e) contains exceptions for paraprofessionals who are proficient in a language other than English and who provide services primarily to enhance the participation of children by acting as a translator, or whose duties consist solely of conducting parental involvement activities. Section 1119(f) requires that school districts, regardless of the paraprofessionals hiring date, must ensure that all paraprofessionals working in a program supported with Title I funds have earned a secondary school diploma or its recognized equivalent.

CHAPTER 9 - HIGHLY QUALIFIED TEACHERS AND PARAPROFESSIONALS

A. TEACHERS

Section 1119(a) of the Act states that, on the first day of the first school year after the date of the enactment of the Act (i.e., first school day of the 2002-2003 school year), each local educational agency receiving Title I funding shall ensure that all teachers hired after the first day of school, and teaching in a program supported with Title I funds, are highly qualified. However, this general provision is somewhat unclear and is substantially modified by the provisions that follow in Section 1119.[23] The U.S. Department of Education is expected to adopt regulations that will clarify the timetable for compliance. However, a recent draft of regulations issued by the U.S. Department of Education does not address the issue.

Section 1119(a)(2) requires that each state educational agency receiving Title I funds is required to develop a plan to ensure that all teachers teaching in core academic subjects within the state are highly qualified not later than the end of the 2005-2006 school year. Such plan shall establish annual measurable objectives for each local educational agency and school that, at a minimum, require the following:

1. An annual increase in the percentage of highly qualified teachers at each local educational agency and school, to ensure that all teachers teaching in core academic subjects in each public elementary and secondary school are highly qualified not later than the end of the 2005-2006 school year.

2. An annual increase in the percentage of teachers who are receiving high quality professional development to enable such teachers to become highly qualified and successful classroom teachers.

3. Other measures as the state educational agency determines to be appropriate to increase teacher qualifications.

Each local educational agency receiving Title I funds is required to develop a plan to ensure that all teachers teaching within the school district served by the local educational agency are highly qualified not later than the end of the 2005-2006 school year.

---

[23] 20 U.S.C. Section 6319.

Section 1119(b) requires annual state and local reports. Each state educational agency must require each local educational agency receiving Title I funds to publicly report, each year, beginning with the 2002-2003 school year, the annual progress of the local educational agency as a whole, and each of its schools, in meeting the measurable objectives described in the state plan. Each state educational agency receiving Title I funds must prepare and submit each year, beginning with the 2002-2003 school year, a report to the Secretary of Education describing the state educational agency's progress in meeting the measurable objectives described in its state plan. Each year, beginning with the 2002-2003 school year, the Secretary of Education shall publicly report the annual progress of state educational agencies, local educational agencies and schools in meeting the measurable objectives described in each state's state plan.

Section 9101(23)[24] defines the term "highly qualified." When the term "highly qualified" is used with respect to any public elementary school or secondary school teacher, it means the following: (1) the teacher has obtained full state certification as a teacher (including certification obtained through alternative routes to certification) or passed the State Teacher Licensing Examination, and holds a license to teach in such state, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the state's public charter school law, and (2) the teacher has not had certification or licensure requirements waived on an emergency, temporary, or provisional basis.

The term "highly qualified" when used with respect to an elementary, middle or secondary school teacher who is not new to the profession (the term "new to the profession" is undefined as to time or number of years of experience, but would, most likely, be a teacher with no prior teaching experience) means that the teacher holds at least a bachelor's degree, meets the requirements set forth below for teachers new to the profession and has passed a rigorous State test or demonstrates competence in all academic subjects in which the teacher teaches based on a high objective uniform State standard of evaluation that:

1. Is set by the State for both grade appropriate academic subject matter knowledge and teaching skills.
2. Is aligned with challenging State academic content and student academic achievement standards and developed in consultation with core content specialists, teachers, principals and school administrators.

---

[24] 20 U.S.C. Section 7801.

3. Provides objective, coherent information about the teacher's attainment of core content knowledge in the academic subjects in which a teacher teaches.

4. Is applied uniformly to all teachers in the same academic subject, and the same grade level throughout the state.

5. Takes into consideration, but not be based primarily on, the time the teacher has been teaching in the academic subject.

6. Is made available to the public upon request.

7. May involve multiple, objective measures of teacher competency.

With respect to elementary school teachers who are new to the profession, the term "highly qualified" means that the teacher holds at least a bachelor's degree and has demonstrated, by passing a rigorous state test, subject knowledge and teaching skills in reading, writing, mathematics and other areas of the basic elementary school curriculum. With respect to a middle or secondary school teacher who is new to the profession, the term "highly qualified" means that the teacher holds at least a bachelor's degree and has demonstrated a high level of competency in each of the academic subjects in which the teacher teaches by:

1. Passing a rigorous state academic subject test in each of the academic subjects in which the teacher teaches, or

2. Successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, course work equivalent to an undergraduate academic major, or advanced certification in credentialing.

The proposed federal regulations, 34 C.F.R. §§200.55 through 200.57, clarify that a teacher meets the alternate route certification program requirements if the state permits the teacher to assume functions as a teacher and if the teacher is making satisfactory progress toward full certification as prescribed by the state and the program. If the teacher has had certification or license or requirements waived on an emergency, temporary or provisional basis, the teacher is not highly qualified.

B. PARAPROFESSIONALS

Section 1119(c) of the Act requires each school district receiving assistance under Title I to ensure that all paraprofessionals hired after January 8, 2002, and working in a program supported with funds under Title I shall have:

1. Completed at least two years of study at an institution of higher education;

2. Obtained an Associate's or higher degree; or

3. Met a rigorous standard of quality and can demonstrate, through a formal state or local assessment, knowledge of, and the ability to assist in instructing reading, writing, and mathematics, or knowledge of, and the ability to assist in instructing reading readiness, writing readiness, and mathematics readiness as appropriate.

Under state law, Education Code Section 45344.5, instructional aides must pass the district proficiency exam in basic reading, writing and mathematics skills for high school seniors. While the proficiency exam has been replaced by a high school exit exam for high school seniors, Section 45344.5 could be amended so that the proficiency exam could be utilized to meet the requirements of Section 1119(c) and Equal Employment Opportunity Commission requirements that prohibit the imposition of false or artificial barriers to employment.

Section 1119(d) requires existing paraprofessionals to meet these requirements by January 8, 2006. Section 1119(e) contains exceptions for paraprofessionals who are proficient in a language other than English and who provide services primarily to enhance the participation of children in programs under this part by acting as a translator, or whose duties consist solely of conducting parental involvement activities. Section 1119(f) requires that school districts, regardless of the paraprofessionals' hiring date, must ensure that all paraprofessionals working in a program supported with Title I funds have earned a secondary school diploma or its recognized equivalent.

Section 1119(g) outlines the duties and responsibilities of paraprofessionals as follows:

1. To provide one-on-one tutoring for eligible students, if the tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher.

2. To assist with classroom management, such as organizing instructional and other materials;

3. To provide assistance in a computer laboratory;

4. To conduct parental involvement activities;

5. To provide support in a library or media center;

6. To act as a translator; or

7. To provide instructional services to students under the direct supervision of the teacher.

Section 1119(h) authorizes a school district receiving Title I funds to use such funds to support ongoing training and professional development to assist teachers and paraprofessionals in satisfying the requirements of Section 1119. Section 1119(i) requires each school district to require that the principal of each school operating a program under Section 1114 (Schoolwide Programs) or 1115 (Targeted Assistance Schools) attest annually in writing as to whether the school is in compliance with the requirements of Section 1119.

Proposed federal regulation 34 C.F.R. §200.58(a)(2) would clarify that the term "paraprofessional" applies to an individual performing instructional support duties and not to an individual performing only non-instructional duties. Section 200.59(c)(2) would clarify that a paraprofessional works under the direct supervision of a teacher if the teacher plans the paraprofesssional's instructional activities and evaluates the achievement of the students with whom the paraprofessional works. The paraprofessional also would be required to work in close physical proximity of the teacher. According to the Secretary of Education, the purpose of proposed Section 200.59(c)(2) is to reinforce the statutory safeguards against the improper use of paraprofessionals to provide actual instruction.

CHAPTER 10 - MISCELLANEOUS REQUIREMENTS

A. CONSTITUTIONALLY PROTECTED SCHOOL PRAYER

Section 9524[25] of the Act requires that no later than September 1, 2002, and every two years thereafter, the Secretary of Education shall provide guidance to state educational agencies, local education agencies and the public on constitutionally protected prayer in public elementary schools and secondary schools, including making the guidance available on the Internet. As a condition of receiving Title I funds, a local educational agency shall certify in writing to the state educational agency involved that no policy of the local educational agency prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary and secondary schools as set forth in the guidance.

The certification shall be provided by October 1, of each year. The state educational agency shall report to the U.S. Secretary of Education by November 1, of each year, a list of those local educational agencies that have not filed a certification or that complaints have been made to the state educational agencies that the local educational agencies are not in compliance with the guidance. The Secretary of Education is authorized and directed to secure compliance with its guidance by a local educational agency by issuing and securing compliance.

B. BOY SCOUTS

Section 9525[26] of the Act also entitled, "The Boy Scouts of America Equal Access Act" prohibits any local educational agency receiving Title I funds from discriminating against or denying equal access or a fair opportunity to meet to any group officially affiliated with the Boy Scouts of America or any other youth group if it has a designated open forum or a limited open forum. A local educational agency may not deny such access or discriminate based on the membership or leadership criteria of the organization or oath of allegiance to God and country. Section 9525 does not require a local educational agency or any school to sponsor a Boy Scout group or any of the designated youth groups.

Section 9525(c) authorizes the Secretary of Education to secure compliance with this requirement through the Office for Civil Rights and through enforcement under the 1964 Civil Rights Act. The Secretary of Education is empowered to cut off federal funds for failure to comply with this provision.

C. CURRICULUM

Section 9526[27] prohibits Title I funds from being used to develop or distribute materials or operate programs or courses of instruction directed at youth that are designed to promote or encourage sexual activity whether homosexual or heterosexual, to distribute or aid in the distribution by any organization of legally obscene materials to minors on school grounds, to provide sex education or HIV prevention education in schools unless that instruction is age appropriate and includes the health benefits of abstinence or to operate a program of contraceptive distribution in the schools. Section 9526(b) states that nothing in Section 9526 shall be construed to authorize a federal officer or employee to mandate, direct, review or control state or local instructional content, curriculum or related activity.

---

[25] 20 U.S.C. Section 7904.
[26] 20 U.S.C. Section 7905.
[27] 20 U.S.C. Section 7906.

D. MILITARY RECRUITERS

Section 9528[28] requires schools receiving Title I funds to give military recruiters access to schools and the names and address of secondary school students. A secondary school student or the parent of the student may request that the student's name, address and telephone listing not be released without prior written parental consent and a local educational agency shall notify parents of the option to make a request and shall comply with any request. Each local educational agency receiving Title I funds is required to provide military recruiters the same access to secondary school students as is provided generally to post-secondary educational institutions or to prospective employers of those students. The Secretary of Education is required to notify principals, school administrators and other educators about the requirements of Section 9528 within 120 days of the enactment of the Act (May 8, 2002).

E. SCHOOL SAFETY

Section 9532[29] requires that each state receiving Title I funds shall establish and implement a statewide policy requiring that a student attending a persistently dangerous public elementary school or secondary school, as determined by the state in consultation with a representative sample of local educational agencies, or who becomes a victim of a violent criminal offense, as determined by state law, while in or on the grounds of a public elementary school or secondary school that the student attends, be allowed to attend a safe public elementary or secondary school within the local educational agency, including a public charter school. As a condition of receiving Title I funds, a state shall certify in writing to the Secretary of Education that the state is in compliance with this requirement.

F. OTHER PROVISIONS

Section 9521[30] of the Act requires a maintenance of effort by the state in order for a local educational agency to receive Title I funds. The state educational agency must maintain a combined fiscal effort per student or the aggregated expenditures of the agency and the state not less than 90% of the combined fiscal effort or aggregate expenditures of the preceding year. Section 9522[31] of the Act prohibits a state from taking into consideration federal funds in determining the eligibility of a local educational agency for state aid. Section 9523[32] states that any results from an individual assessment of a student under the Act becomes part of the educational records of the student and is subject to all of the federal protections for student records.

---

[28] 20 U.S.C. Section 7908.

[29] 20 U.S.C. Section 7912.

[30] 20 U.S.C. Section 7901.

[31] 20 U.S.C. Section 7902.

[32] 20 U.S.C. Section 7903.

Section 9527[33] states that nothing in the Act shall be construed to authorize an officer or employee of the federal government to mandate, direct or control a state, local educational agency or a school's curriculum, programs of instruction or allocation of state or local resources or to mandate a state or any subdivision of the state to spend any funds or incur any costs not paid for under the Act. Section 9527(b) states that no Title I funds may be used by the United States Department of Education to endorse, approve or sanction any curriculum designed to be used in a elementary or secondary school. Section 9527(c) states that no state shall be required to have academic content or student academic achievement standards approved or certified by the federal government in order to receive financial assistance under the Act.

Section 9529[34] states that no funds under the Act may be used to develop, pilot test, field test, implement, administer or distribute any federally sponsored national test in reading, mathematics or any other subject unless specifically and explicitly authorized by law. This prohibition does not apply to international comparative assessments developed under the National Education Statistics Act of 1994 and administered to only a representative sample of students in the United States and in foreign countries.

Section 9531[35] states that nothing in the Act shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or collections of data under the Act. Section 9532[36] states that each state receiving funds under the Act shall establish and implement a statewide policy requiring that a student be allowed to attend a safe public school, including a public charter school, if the student attends a persistently dangerous public school or becomes a victim of a violent criminal offense (as determined by state law) while in or on the grounds of a public school that the student attends. As a condition of receiving funds under the Act, a state must certify in writing through the United States Secretary of Education that the state is in compliance with Section 9532.

Section 9533[37] states that nothing in the Act shall be construed to require, authorize or permit the Secretary of Education, a state education agency, a local educational agency or a school to grant to a student or deny or impose upon a student any financial or educational benefit or burden in violation of the Fifth or Fourteenth Amendments of the Constitution or other law relating to discrimination in the provision of federally funded programs or activities. Section 9534[38] prohibits discrimination on the basis of race, color, religion, sex, national origin or disability in any program funded under the Act.

---

[33] 20 U.S.C. Section 7907.
[34] 20 U.S.C. Section 7909.
[35] 20 U.S.C. Section 7911.
[36] 20 U.S.C. Section 7912.
[37] 20 U.S.C. Section 7913.
[38] 20 U.S.C. Section 7914.

Section 9535[39] authorizes the Secretary of Education to issue regulations under the Act only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by the Act.

---

[39] 20 U.S.C. Section 7915.

SAMPLE LETTER TO EXISTING PARAPROFESSIONALS

Dear _____________:

As you may be aware, a new federal law requires that paraprofessionals, such as instructional aides, meet new requirements effective January 8, 2006. This new federal law requires that paraprofessionals complete two years of college, obtain an Associate's Degree, or pass an exam demonstrating knowledge and ability to assist in instructing reading, writing and mathematics. The U. S. Department of Education is in the process of developing regulations to implement this law and to clarify its meaning. This process will take several months to a year to complete.

When we receive this information, we will forward it on to you. It is the intent of the ___________ School District to assist you in meeting these requirements. Please feel free to call ______________ if you have any questions.

NOTICE TO PARENTS

To: All Parents

From: [Insert name] School District

Date: [Insert date]

As a parent of a student in the [insert name] School District, under the No Child Left Behind Act of 2001, you have a right to know the professional qualifications of the teachers who instruct your child. The No Child Left Behind Act gives you the right to ask for the following information about each of your child's classroom teachers:

- Whether the State of California has licensed or qualified the teacher for the grades and subjects he or she teaches.
- Whether the teacher is teaching under an emergency permit or other provisional status by which state licensing criteria have been waived.
- The teacher's college major; whether the teacher has any advanced degrees and, if so, the subject of the degrees.
- Whether any instructional aides or similar paraprofessionals provide services to your child and, if they do, their qualifications.

If you would like to receive any of this information, please contact [insert name] at [insert telephone number].

National School Boards Association
1680 Duke Street
Alexandria, VA 22314
703.838.6722 Fax 703.683.7590
www.nsba.org/cosa

U.S. Department of Education
Office of Educational Research and Improvement (OERI)
National Library of Education (NLE)
Educational Resources Information Center (ERIC)

NOTICE

Reproduction Basis

☒ This document is covered by a signed "Reproduction Release (Blanket)" form (on file within the ERIC system), encompassing all or classes of documents from its source organization and, therefore, does not require a "Specific Document" Release form.

☐ This document is Federally-funded, or carries its own permission to reproduce, or is otherwise in the public domain and, therefore, may be reproduced by ERIC without a signed Reproduction Release form (either "Specific Document" or "Blanket").

EFF-089 (1/2003)